

HANDY GUIDE  
TO THE  
LAWS OF ONTARIO

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1918

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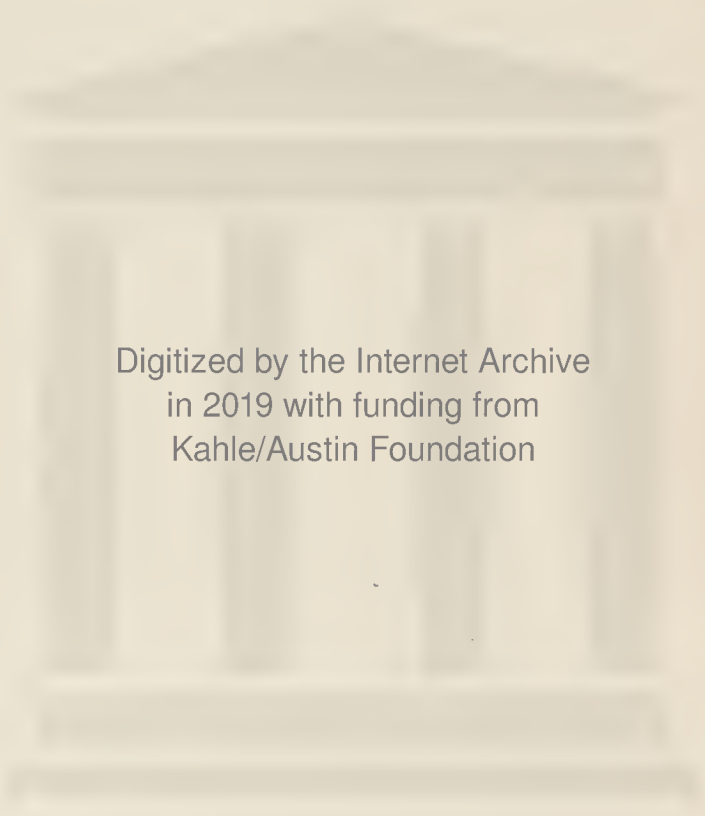
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HANDY GUIDE  
TO THE  
LAWS OF ONTARIO

BY  
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1918

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## FOREWORD.

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This book has been written at the request of certain of our women's organizations, and of many individual friends. It does not lay claim to any especial merit, and in no way is it meant to encourage people to consult it rather than a lawyer when legal *advice* is necessary. What it does try to do is to take those parts of the copious laws of Ontario which are of interest to the social worker and to the ordinary citizen, and to state them in concise language, free from the wordiness which may be necessary for the "nicer points of the law," but which is not necessary for those of us who are not lawyers, but who only wish for an answer to the question, "what says the law" on certain relations of everyday life.

Although the original idea of the book was that it should be a guide to the laws of Ontario for the new women citizens, it was soon apparent that, though there is much sex inequality in our laws, these inequalities concern all our citizens, and men as well as women will need to know that they exist before public opinion will be educated sufficiently to demand their alteration. Further, there is a vast body of legislation of which the interest is not masculine or feminine, but human, and so the scope of the book has been extended to cover those items of interest to all public-spirited citizens.

In the first edition of such a book it is almost impossible to check all errors, and it will be esteemed a favour if persons detecting any such will notify me of the same, in order that they may be rectified when the book is revised from time to time to bring it up to date.

EDITH LANG.

55 WOODLAWN AVE. WEST,  
TORONTO, ONT.





## REFERENCES.

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The largest part of the information contained in this book is taken from the Revised Statutes of Ontario (1914 Edition). References to this book are marked as R.S.O., chapter so-and-so.

But each year sees new laws, and when an act is quoted which has been passed since 1914, it is marked with the number of the year in which it was enacted, *e.g.*, the Venereal Diseases Act is marked 1918, and the whole Act can be referred to in the 1918 volume of the amendments to the R.S.O. (1914).

Further, some laws which are quoted are Dominion Laws, and these are referred to as Dominion Statutes. With the exception of the Criminal Code, these have not been codified recently, but quotations from the Criminal Code are from the 1906 codification, which has lately been republished with all amendments up to 1917. The guide contains all such amendments, and, in addition, certain others passed in 1918.



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# HANDY GUIDE TO THE LAWS OF ONTARIO

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## CHAPTER I

### THE FRANCHISE ACTS

**I. The Ontario Franchise Act (1917). The Elections Act (1918). The Assessment Act, Chap. 193, R.S.O. The Municipal Act, Chap. 192, R.S.O.**

*A.—Electoral Divisions of Ontario.*

The Province of Ontario is divided for the purposes of:

(a) Provincial Government, into 111 constituencies, the members for which are elected by an adult suffrage electorate, based only on a residence qualification.

(b) Municipal Government, into organized and unorganized territory, the former of which is divided into counties. Within the counties are the townships (again subdivided into cities, towns and villages). Any place of a population of 2,000 may become a town, and any place of a population of 15,000 may become a city, and, if they take out a charter of incorporation, may have their own mayor and council and manage their own affairs apart from the county or the township in which they are situated.

There are certain people who may sit as members of the Legislative Assembly (the provincial body), and certain others for the municipal councils and others, who may not, and others again who "need" not, be elected members of either of these bodies.

*B.—Eligibility to stand for Election.*

Those *eligible for election* to

(a) The Provincial Legislature are:—Males of 21 years and upwards who are born or naturalized British citizens, and are resident in Ontario.

(b) The municipal councils are:—Males of 21 years and upward who are born or naturalized British citizens, who are resident in or within two miles of the place for which they wish to stand, and who have (or their wives have) property in the municipality to the value of \$2,000 in a city, (and correspondingly less in smaller places where land is not so valuable).

The following are *ineligible for election* to

(a) The Provincial Legislature:—All having an interest in contracts awarded by the Legislature, paid civil servants, and members of either of the Ottawa Houses.

(b) The municipal councils:—All having an interest in contracts awarded by the councils, members of the Boards of Education, employees in the city halls, etc.

There are in addition certain men who “need” not sit in the municipal council. This seems an unnecessary list, but the exemption holds also for juries, returning officers, deputy returning officers, poll clerks, etc. Those exempted from all these services are:—Doctors, teachers, millers, coroners, clergy, members of fire brigades or of any Provincial or Dominion Parliament.

*C.—Eligibility to Vote at Elections.*

A most important question at the present time and one exercising the minds of all is *who may vote at the different Elections?* First of all, only those will be

allowed to vote at any election whose names are on the voters' list prepared for that election. It will be shown later how these lists are made up and how to get on them. But, first of all, *who is eligible to be put on the voters' list?*

(a) For the provincial elections:—Any person, man or woman, is eligible who is

- (i) 21 years of age, a British subject, who has resided in Canada for one year and in the electoral district for three months prior to the day of nomination, provided they are not disqualified under any other act of Parliament; or
- (ii) a soldier, nurse or student, even though they do not fulfil the residence qualifications; or
- (iii) a past or present soldier or military nurse in the allied armies if he or she was at time of enlistment in Ontario, and even if he or she is less than 21 years of age. This includes both enfranchised and unenfranchised Indians.

(b) For the municipal elections:—Any person, man or woman, who is not disqualified under some other act, who is 21 years old and a born or naturalized British subject and who at the same time has one or other of the following qualifications:

- (i) owns or leases property in the municipality assessed to the value of \$400 in cities, or \$300 in towns of more than 3,000 population, or \$200 in towns of less than 3,000 population, or \$100 in villages and townships; or
- (ii) is rated on an income of not less than \$400 in the preceding twelve months; or

(iii) is a farmer's son where the farm is rated at a value of more than twice the above-mentioned sums.

With reference to a person voting on an income qualification, some municipal clerks throughout Ontario have been ruling that since earned incomes up to \$600 are exempt from taxation, a person needs to have an income of \$1,000 before they can be taxed on \$400, and as a result obtain a municipal vote.

This ruling is, however, mistaken, as it distinctly states in the Assessment Act (Chap. 193, R.S.O., § 8, p. 2582) "Where any person is entitled by law to exemptions from assessment in respect of income, he may, upon making affidavit on a form to be got from the city clerk, require his name to be entered upon the assessment roll for such income for the purpose of being entitled to vote at municipal elections; and upon such affidavit being delivered to the assessor at any time before the day fixed for the return of his roll, it shall be the duty of the assessor to enter the name of such person on the roll; and such income shall be liable to taxation like other assessable income. Such affidavit may be made before the assessor."

Hence it is quite clear that persons with a personal income from earnings of \$400 or over *may* declare that income (even though by law they *need* not unless it exceeds \$600), pay the tax on such declared income, be put on the assessment roll and become entitled to a municipal vote.

But it is not enough to be eligible for the voters' lists. One must be *on* them to be allowed to vote. So the question arises as to *how the lists are compiled*.



*D.—Compilation of Municipal Voters' Lists.*

To take the municipal lists first. The voters' lists are compiled every year from the assessment roll. Different places make their assessment at different times of the year. In Toronto, the different wards are worked at different times of the year, and each person will know or must find out when her town makes up its assessment roll. It is the duty of the assessors of any municipality to "diligently enquire" (chiefly through employers, etc.) who is liable for taxation and to send to all such persons papers asking them to declare the amount of their assessable income and property. Later one gets another paper stating how much one is assessed on these, and if a person thinks that he or she is overcharged he or she can appeal against it at the Revision Court. From these papers the assessment roll is made up, and from the assessment roll the voters' lists are made up. When the clerk has compiled the latter he must announce the fact through the public press and copies of it must be posted in the post office and in every public school in the municipality as well as in the clerk's office. It is then everyone's duty to make sure that his or her name is on that list, and, if it is not, or if someone else's is not whom you think should be on, or someone's name is there whom you know to be dead or otherwise ineligible, it is your duty to appeal to the Court of Revision within 30 days of the posting of the lists. After the Court of Revision has made its decisions (there were 3,500 appeals in one year in Toronto), a further list is printed and this last list is the voters' list for the next municipal election.

Many widows and spinsters have been on this list for years, though not by any means all who were eligible,

because they had never troubled to search the lists. Now married women with the necessary qualifications may be on, too, though one relic of "old-fashion-dom" is still retained. A married woman is allowed to delegate her municipal vote to her husband if she does not wish a vote herself! Some women, who have property or income of their own, are already qualified. But the vast majority of married women are living in houses rented in the name of their husbands or owned (at least nominally) by their husbands. It remains for these women to devise some means by which they can become entitled to a vote. In the case of a husband owning property which is assessed at more than \$800, he should give some of it to his wife and they will become joint tenants. A lawyer will draft a new deed for \$5, or any one can buy a legal form of deed of gift and fill in the correct names and then swear to its accuracy before a notary public. Similarly with a rented house. A new lease can be drawn making husband and wife joint occupiers. In either case you take your assessment paper back with the new deed, and the assessor will alter the roll in your presence and the list should then contain your name.

It has also been suggested that a wife might declare her housekeeping allowance as her income, be assessed on it and so obtain her vote. It is worth while trying this and every other conceivable way, and if the assessor will not alter the assessment roll, then appeal through the Court of Revision. In this way a precedent will be established and it will be known whether or not a certain method will allow a woman to vote. Further, property has often been registered in the wife's name to avoid

trouble or death duties in the case of the husband's death, and the man could hitherto vote on his wife's property. Now that is no longer the case (unless she formally delegates her vote to him), and to get his vote a new deed will have to be drawn making him in this case a joint tenant to the value of \$400 at least, or she may vote on the property and he on his income.

So much for the municipal vote. The *qualifications for a provincial vote* are relatively very simple, viz., an adult suffrage vote with a short residential qualification only. But even these lists have been made complicated to compile. They used, under the old Manhood Suffrage Act, to be compiled by registrars sitting for four successive days in different districts and registering voters who applied in person or by proxy. This act has been repealed and the Ontario Franchise Act has taken its place. This makes one set of rules for townships, villages and towns, other than county and district towns having a population of less than 9,000 people, and another for cities, and county and district towns having a population of more than 9,000.

*E.—Compilation of Provincial Voters' Lists.*

To take the smaller places first. In making out the voters' lists from the assessment roll, the clerk makes them out in two parts. The first part contains the names of those people qualified to vote at both provincial and municipal elections. The second part contains the names of those people qualified to vote at municipal elections only (*i.e.*, non-resident ratepayers). To get the correct and complete lists for the provincial election, therefore, a third list must be compiled, which contains the names of persons eligible for the provincial lists only, viz.,

persons of 21 years, etc., who pay no taxes, and this third list, together with part I, of the municipal voters' lists, will constitute the complete provincial lists. In the bigger places (*i.e.*, population more than 9,000) the clerk makes out a list from the assessor's roll consisting of one part only, containing the names of all persons eligible to vote at the municipal elections (*i.e.*, both resident and non-resident ratepayers) and this list will be used at municipal elections only. For the provincial elections an entirely new list is to be made of all adult residents. This latter list, and the additional part of the lists of smaller towns, are to be made by registrars who will make a house to house canvass of the residential districts and register all the eligible voters. This will not be done until after the Lieutenant-Governor has proclaimed that an election is to be held and ordered that new voters' lists be prepared. These lists will be printed and posted up in public places, after which appeals will be heard, and a further list prepared, which will be the final one, and will be used at the next ensuing provincial election.

## II. The School Act, Chap. 266, R.S.O. (1914) and amendment 1918.

The election for school trustees is generally held at the same time as the municipal elections, and the following persons are qualified to vote at it, *viz.*:

- (i) *In rural school sections.* Every ratepayer of the full age of 21 years who is assessed as a public school supporter in that rural school section, and also every man qualified to vote as a farmer's son in the municipal elections.

- (ii) *In urban municipalities.* Every person whose name is on the voters' list as being entitled to vote at the municipal election and who is not assessed as a separate school supporter.

This is the law as passed in 1918, and it will be noted that it disfranchises certain people as far as school elections go—as heretofore, *all* persons assessed as school supporters could vote whether their property was valued at \$400 or less.

Any ratepayer who is a British subject, resident in the municipality, of the full age of 21 years and not otherwise disqualified, may be elected for a school trustee.

### III. The Dominion Election Act, and War-time Elections Act (1917-1918).

Ontario people also vote, along with the people of the other provinces, in the Dominion elections. The qualifications for men voters for these elections are the same as those of the province in which the man lives. By an act of 1918, every woman was given the Dominion Franchise who

- (i) Is a British subject, and
- (ii) Is of the full age of 21 years or upward, and
- (iii) Possesses the qualifications which would entitle a male person to vote at a Dominion election in the province in which the woman is seeking to vote, provided that a married woman, or a daughter living at home with her parents, shall be deemed to have any necessary property or income qualifications if her husband or either of her parents is so qualified.

For the purposes of this act, a woman is deemed to be a British subject under the following conditions:

(a) *If unmarried*; if she was born British and has not taken out alienation papers; or, if she was born an alien, but has become and is naturalized.

(b) *If married*; if she was born British and married a Briton; or, if she was born British and married an alien (other than an alien enemy), provided she has not herself sworn allegiance to a foreign power.

Or, if she was born an alien but has married a Briton, provided she obtains a certificate from a judge stating that she is 21 years old, has the necessary residence qualifications and has such other qualifications (*e.g.*, an adequate knowledge of French or English, etc.) to have become naturalized on her own account if unmarried, and has taken the oath of allegiance to His Majesty.

The War-time Dominion Election Act disfranchised the following persons for the time of the war, viz.:

- (i) Duokabors and Mennonites.
- (ii) Conscientious objectors.
- (iii) Those born in alien enemy countries and not naturalized before 1902.
- (iv) Those born in neutral countries, and not naturalized before 1902, provided their mother-tongue was that of an alien enemy country—*e.g.*, the German speaking Swiss, etc.



These disfranchisements do not hold, however, against either men or women who have immediate relatives who are fighting, have fought, or are going to fight, for the allies, or who have only been detained from so doing by medical unfitness.

#### IV. The Naturalization Act (Dominion Act).

Continual reference is made in all laws to the words "British subject," and so it will be as well to give some clauses from the Naturalization Act of 1914. This is a Dominion Act and applicable to all the provinces.

A man is a British subject, either married or unmarried, provided he

- (i) was born British and has not taken out alienation papers, or
- (ii) was born an alien, but has become naturalized on his own account, or, while he was a minor, was mentioned in his father's naturalization papers.

An unmarried woman is a British subject, under the same conditions, but a married woman always takes the nationality of her husband, unless he changes his nationality *after* they were married, in which case the wife may retain her own nationality if she so desires. Further, on widowhood or divorce, a woman may now revert to her original nationality if she so desires.

Before an alien, either man or unmarried woman, can become naturalized he or she must

- (i) have lived in His Majesty's Dominions for a period of not less than five years, or have served under the crown for the same period within the last eight years before the application.

- (ii) Have resided in Canada for not less than 1 year immediately preceding the application and have previous residence either in Canada or in some other British Dominion for a period of 4 years within the last eight years before the application.
- (iii) Be of good character.
- (iv) Have an adequate knowledge of the English or French language.
- (v) Intend to reside in a British Dominion.
- (vi) Take the oath of allegiance.

These conditions form the section 2 of the Naturalization Act 1914, to which reference is often made.

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## CHAPTER II

### LAWS RELATING TO CHILDREN

#### I. Children's Protective Act, Chap. 231, R.S.O., p. 3089, et seq.

A child under this act means a boy or girl under 16 years of age.

A "neglected child" is a child who is found begging, thieving, loitering, sleeping out at night; or who is living with persons, who, by reason of intemperance, depravity or cruelty, are unfit to have the charge of children. (A recent Dominion amendment to the criminal code has ruled that a child need not be old enough to understand the immorality among which it lives to



make that immorality a criminal offence.) The corporation of every city and county *must* provide a shelter for neglected children.

A "neglected child" when apprehended must be taken before a judge within seven days—the parents must be notified, and if the judge orders the child to be sent to the shelter, he may order both the municipality and the parents to subscribe to its maintenance. The Children's Aid Society becomes the legal guardian of the child, and may place it in a foster house with a condition in the contract by which they can withdraw the child if its welfare so demands, but if the parents have "neglected" the child, they shall not have possession of it again without an order from a judge of the Supreme court.

*The penalty* for ill-treating or neglecting a child is a fine of not more than \$100 or 1 year's imprisonment.

*Street trading.* No girl under 16 years, and no boy under 10 years shall engage in any street trade.

*Curfew law.* No child shall loiter on the streets after 9 p.m. without a parent, guardian, or adult appointed by the parents. If such a child, after a warning, refuses to go home, it shall be taken to the shelter.

*Performing in public.* No child shall beg, even under pretence of singing or performing, in a public place.

No child shall sing, perform, offer anything for sale, etc., in any public place between 9 p.m. and 7 a.m.

No child shall perform at any place to which the public is admitted by payment, unless a license has been granted to a child over 10 years of age by the head of

the municipality after he has satisfied himself that full provision has been made for such child's health and happiness.

## II. Juvenile Immigration, Chap. 231, R.S.O., p. 3101.

No society shall bring children into Ontario without an authorization from the Lieutenant-Governor in Council. All such children must be free from disease and must not be feeble-minded. The society importing them will have to return them if within 5 years they become a public charge.

The society must keep careful returns of all children imported and, if boarded out, the children must receive careful supervision by means of a personal visit from the society's agent at least once a year.

## III. Movie Theatres, Chap. 236, R.S.O., p. 3109.

No child under 15 years of age may attend a movie theatre or kindred show at which an admission fee is charged except in company with an adult.

## IV. The Guardianship of Children, Chap. 153, R.S.O., p. 1651, et seq.

When both parents are alive, but not living together, the supreme court or the surrogate court may decide which parent shall have the custody of, and access to, the children under 21 years of age, regard having been taken of the welfare of the child, the conduct of its parents and their wishes.

These courts may also make an order on the father for the maintenance of the children.

No child shall be given into the custody of a mother against whom adultery has been proved.

The mother is the sole legal guardian of her *illegitimate* children, but the father is the sole legal guardian of *legitimate* children, and he may by deed or will dispose of his children, either born or to be born after his death, as far as their custody and education go, until they are twenty-one, to any person in possession or remainder. Such deed shall be good against anyone (even the mother) claiming the custody of such children, and if anyone tries to get hold of such children an action for damages can be entered into by the person to whom the father has willed them (section 3).

Even if the father does not will his children away from their mother, he may appoint a guardian to act with her, after his death, whereas, if the mother dies, she *must* appoint the father to be one guardian, and she *may* provisionally appoint someone to act with him, and then, if the court proves that the father is not fit to act alone, it can confirm her appointment.

**V. Maternity Boarding Houses Act, Chap. 230, R.S.O., p. 3085, et seq.**

No person shall receive women for accouchements, or board and lodge unmarried mothers and infants unless registered under this act.

No person shall keep any infant under three years of age, for the purpose of nursing or maintaining it, for more than twenty-four hours unless registered, or unless the local Medical Officer of Health or the Superintendent of Neglected Children gives permission to a person to keep one such child.

A person registered under this act must keep full records of all women and children using her house.

Every birth at her house must be attended by a physician, and no child born there and under three years of age may be adopted out without the consent of the correct officials.

Such houses must be open to inspection by the correct officials and a license may be cancelled at any time for cause.

#### **VI. Marriage Settlements of an Infant.**

A boy of 20 years, and a girl of 17, can, on contemplating marriage and with the consent of the supreme court, make a marriage settlement which shall be binding.

#### **VII. Illegitimate Children.**

Illegitimate children are not made legitimate by the subsequent marriage of their parents.

Illegitimate children do not inherit from a parent who has died intestate.

*Support of Illegitimate Children.* Any person who has given food and necessities to an illegitimate infant may sue the father for the value thereof. If the mother of the child wishes to sue, or someone who has supplied the mother with necessities, no action can be taken unless the mother has, either before the baby was born or within six months after its birth, taken an affidavit before a Justice of the Peace of the county in which she lives, stating who is the father of the child. This affidavit must be filed with the Clerk of the Peace, but it will not be accepted as proof of the paternity of the child without corroborative evidence.

### VIII. Juvenile Offenders.

Every city or county (even if there is no special Juvenile Court established there), shall provide for the trial of juvenile offenders in a separate room from that in which adults are being tried.

The judge may commit such child to an Industrial School, or to a Children's Aid Society, which may adopt out or apprentice such child, and its parents cannot remove the child without permission in writing from the Society. *The Ontario Juvenile Court Act* (1916) applies only (i) to those cities and counties whose councils have proclaimed the adoption of the Juvenile Delinquents Act, which was passed by the Dominion Government in 1908.

Or (ii) to those places in which the Lieutenant-Governor in Council has established a Juvenile Court.

*Where a Juvenile Court is established*, the Lieutenant-Governor in Council shall appoint a Juvenile Court Commissioner who shall deal with all children under 16 years of age who are to be tried under any Provincial or Dominion Act, and with all cases coming up under the Children's Protection Act, the Industrial Schools Act, and the Truancy Act.

The commissioner may appoint probation officers, both paid and voluntary, one of whom shall be the agent of the local Children's Aid Society.

The Dominion Act referred to above is the *Juvenile Delinquents Act* of 1908. It applies to children under 16 years, and says that such children shall be called "delinquents" and not criminals. They shall be tried in a Juvenile Court, except when their best interests demand

that their case go on to the ordinary courts. No case is to be tried without notifying the parents and the probation officer. It must be tried privately, and the facts shall not be published in the newspapers without the judge's consent. All proceedings are to be as informal as possible and more in the nature of a friendly counselling between wise parent and child. A young child need not be asked to take an oath.

Punishments may be sending home under supervision of a probation officer; or sending to a foster home as a Children's Aid Society ward; or sending to an Industrial School (only if more than 12 years old). No child shall be put in prison.

A probation officer shall investigate the case before it comes into court, and shall appear for the child in the trial and take charge of it before and after the trial if necessary.

Crimes *against* children may be tried summarily in the Juvenile Court, or that may be used as a first court as the case may be.

This act only comes into force in any province when that province adopts it by proclamation or by act of its legislature.

**IX. For further Laws affecting Children see**

- The Tobacco Act, Chapter VI,
- " Factory Act, Chapter VII,
- " Prison System, Chapter X,
- Education, Chapter IX,
- The Criminal Code, Chapter IV.



## CHAPTER III

## HUSBAND AND WIFE

## I. The Marriage Act, Chap. 143, R.S.O., p. 1613.

No person may solemnize any marriage ceremony without either a license under the seal of the Lieutenant-Governor, *or* a certificate, which is obtained after the intention of the two persons to get married has been proclaimed once openly on a Sunday in a church, chapel, etc., in those municipalities where each of the parties lives, or has lived for the next preceding 15 days. Such proclamation must be certified to by the minister proclaiming it, and the certificate of it must be handed to the minister who performs the marriage ceremony. The certificate is only valid if the proclamation has been made at least one week before the wedding, and if the wedding takes place within three months of the proclamation.

Except under very exceptional circumstances, no marriage shall take place between 10 p.m. and 6 a.m., and in every case there shall be two adult witnesses, who shall add their signatures to the record of the marriage.

No clergyman, etc., himself an issuer of licenses, shall marry the people to whom he has issued a license. The certificate or license is left with the clergyman, who, after performing the ceremony, endorses upon it the necessary particulars and forwards it to the Registrar-General. He shall also give a certificate of marriage to either of the parties if they ask for it, and shall record

the marriage in a book kept by him for the purpose which shall be signed by the witnesses.

*The Issue of Licenses and Certificates.* Licenses are signed by the Provincial Secretary and given to such people who are recommended by the mayor or reeve of a municipality to act as license agents in that municipality. This agent pays the actual cost of providing the licenses, but is entitled to charge a fee of \$5 for each license issued, which he retains for himself.

Before issuing a license, he is supposed to ascertain

- (i) That the parties are both 18 years old, or, if not, that the father, if living (if not, the mother), has consented to the marriage.
- (ii) That the parties are not marrying a relation within the bars of consanguinity.
- (iii) That neither of the parties is insane, idiotic, or under the influence of intoxicating liquor.
- (iv) That one of the parties has lived at least 15 days in that municipality.
- (v) That neither is a married person already.

## II. Married Women's Property Act, Chap. 149, R.S.O., p. 1631.

A married woman can acquire, hold and dispose of property as if she were unmarried. She is also capable of rendering herself liable for debt, and her husband is not necessarily responsible for her debts.

If she is a trustee or executrix of an estate, she can sell or transfer property on the same conditions as a man, and she can be sued without her husband being either a defendant or a plaintiff.



The separate property of a married woman shall consist of

- (i) All stocks, etc., registered in her name alone in 1884 or since.
- (ii) Her wages and earnings in any occupation in which her husband has no proprietary interest, or gained by her literary, artistic or scientific skill.
- (iii) If married before 1859, without a marriage settlement, all of her property which has not been taken over, sold or absorbed in her husband's estate.
- (iv) If married after 1859, without a marriage settlement, all her personal property, whether belonging to her before marriage or acquired since. It shall be free from his control, but it does not include personal property given to her by her husband after their marriage.
- (v) If married before 1884, all personal and real property which has come to her since then.
- (vi) If married since 1884, all real and personal property belonging to her either before or after marriage. (This is of course the present existing law. See above).

A woman, when married, shall be responsible for her debts before marriage to the full extent of her property, and her husband shall only be responsible for her debts before marriage to the extent of any property which he may have acquired through her.

A married woman shall have full protection for her property against everyone, including her husband, but

except for such protection, a husband and wife cannot sue each other for a tort (*i.e.*, a civil wrong).

This act does not protect a married woman's property if it has been given to her by her husband to defraud his creditors, nor does it interfere with marriage settlements or any restriction against anticipation. But marriage settlements and restrictions do not protect a woman from liability for debts which she contracted before marriage.

This act gives a married woman her own earnings in a trade in which her husband has no proprietary interest, but it does not give her her earnings as a domestic worker, or as a farmer's wife, or in small commercial enterprises and shops, in which the wife often does such a large share of the work, the result of which is not legally recognized as hers.

A married woman who

- (i) Has a judgment for alimony.
- (ii) Has left her husband for cruelty or other justifiable cause.
- (iii) Has a lunatic husband with or without lucid intervals.
- (iv) Has a husband in prison for a criminal offence.
- (v) Is deserted by her husband.
- (vi) Has a cruel, neglectful husband.
- (vii) Whose husband has never been in Ontario,

may obtain an order of protection entitling her, notwithstanding her marriage, to have and enjoy the earnings of her minor children free from the debts and control of her husband. This order of protection *must* be

registered in the registry office as it has no effect until so registered.

**III. Conveyances of Married Women, Chap. 150, R.S.O., p. 1640.**

A married woman over 21 years of age may

- (i) Execute deeds of conveyance or mortgage.
- (ii) Bar her dower.
- (iii) If a trustee or executrix, transfer bonds, etc.
- (iv) Convey land which is subject to tenancy by courtesy without her husband's consent under certain conditions (see Chap. II. on wills).

**IV. Deserted Wives Maintenance Act, Chap. 152, R.S.O., p. 1647.**

A "deserted wife" is one whose husband has deserted her, or whose husband wilfully refuses or neglects to provide her with necessaries, or whose husband is so addicted to cruelty that she lives apart from him. A deserted wife may summon her husband before a police magistrate or two Justices of the Peace, who, on proof of the service of the summons (whether or not the man appears), and of his wilful neglect to support his wife, shall order him to pay a weekly sum to his wife up to \$10, having regard to the husband's means and his wife's.

If the order is not paid within 21 days, and whenever it is in arrears, the wife may obtain a further summons to the man to appear and state why he has not paid. The order may be enforced under the Summary Convictions Act by means of a fine or imprisonment.

No order for support shall be made in favour of a wife who is convicted of adultery, unless the adultery has been condoned by the husband.

This is the Ontario Act, but a recent amendment of the Criminal Code of the Dominion Parliament is much more efficient. It makes it a criminal offence, punishable by a fine of \$500 or one year's imprisonment, or both, to be the husband, head of a family, parent or guardian, who, being under legal duty to provide necessaries for his wife and children, neglects or refuses, without lawful excuse, to provide such necessaries when his wife or children are in destitute or necessitous circumstances (see Criminal Code, Chap. 146, §§ 242 and 242, *a*).

## **V. Divorce.**

There are no divorce courts in Ontario. To obtain a divorce it is necessary to have a private act passed by the Dominion Parliament. A divorce can only be got in consequence of adultery, and there is no distinction between the sexes in those provinces whose divorce proceedings are carried out by the Dominion Parliament.

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## CHAPTER IV

### THE CANADIAN CRIMINAL CODE (CHAP. 146 DOMINION STATUTES, 1916 EDITION)

#### **I. Importation of Aliens.**

It is illegal to import alien labour under indenture. All such contracts shall be null and void.

This does not apply in the cases of strictly personal or domestic servants, or to bringing skilled workmen from abroad for a new industry for which labour is not at present obtainable in Canada.

## II. The Riot Act. § 91.

If more than twelve people are assembled for the purpose of disturbing the peace, it is the duty of every sheriff, deputy sheriff, mayor or other head officer or justice who knows of such an assembly in his district to approach as near as he possibly can in safety and proclaim in a loud voice, "Our Sovereign Lord the King charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business, upon the pain of being guilty of an offence on conviction of which they may be sentenced to imprisonment for life. 'God Save the King.'"

An Order in Council, published since the Quebec riots in March, 1918, has given power to the officer commanding troops in a division in which a riot takes place, to call out the troops and use them to restore order whether asked by the civil authorities to do so or not.

## III. Offences against Morality.

Buggery is an indictable offence punishable by a life sentence. § 232.

Incest is an indictable offence punishable by 14 years' imprisonment. § 204.

*A. Seduction.* Anyone who seduces, and has illicit connection with the following girls is guilty of an indictable offence, the maximum penalties for which are given in brackets, namely :

- (a) A girl under 14 years of age, whether he knows her correct age or not (life and whipping). For *attempting* this offence, the punishment can be 2 years and whipping. §§ 301, 302.

- (b) A girl between 14 and 16 years, previously chaste (2 years). § 211.
- (c) A girl under 21 years and previously chaste, by a man over 21 years of age under promise of marriage (2 years). § 212.
- (d) A ward by her guardian (2 years). § 213.
- (e) An employee previously chaste and under 21 years in a factory, mill, workshop or store, by her employer (2 years). § 213.
- (f) A passenger on a ship by captain, officer, or seaman, who uses a promise of marriage, threats, or solicitation (1 year or \$400 fine). § 214.
- (g) An idiot, insane or deaf and dumb girl, knowing her to be such (4 years). § 219.

*B.—Indecent Assault* on any female is an indictable offence, liable to be punished by 2 years' imprisonment and a whipping. Assault is the act of using force or threats on another person. § 292.

*C.—Rape* is the act of a man having carnal knowledge of a woman other than his wife without her consent, or with her consent which has been extorted by threats or fear of bodily harm, or by impersonating her husband, or by false representations as to the nature and quality of the act. Rape may be punished by death or imprisonment for life. *An attempt* to commit rape is liable to a punishment of seven years' imprisonment. §§ 298, 299, 300.

*D.—Procuring for Immoral Purposes.* A parent or guardian who procures his ward for some other man, or permits her defilement or receives money for it is liable to 14 years' imprisonment if such girl is under 14 years; or to 5 years' imprisonment if such girl is of or above 14 years. § 215.

§ 216. Everyone is guilty of an indictable offence and liable to 5 years' imprisonment, and also a whipping on a second conviction who

- (i) Procures or solicits any girl or woman to have unlawful carnal connection, either within or without Canada, with any person or persons.
- (ii) Procures, or attempts to procure, any woman to become a prostitute, either within or without Canada.
- (iii) Directs or takes any woman, on her first arrival in Canada, to a house of ill-fame.
- (iv) Entices any girl to leave home to become an inmate of a house of ill-fame, or conceals a girl in such a house.
- (v) By false pretences, by drugs, by threats or intimidation procures any woman for immoral purposes.
- (vi) Procures any woman to come to, or leave Canada, for immoral purposes.
- (vii) Inveigles or entices any woman, who is not a common prostitute or of known immoral character, to a house of ill-fame.



*E.—Keeping a House of Ill-fame or living on the Avails of Vice.*

- § 217. (i) The owner, occupier, manager or controller of any premises who induces or knowingly allows any girl under 18 years of age to resort to or remain on the premises for immoral purposes, is guilty of an indictable offence and liable to 10 years' imprisonment if such girl is under 14 years of age; 2 years' imprisonment if such girl is of or over 14 years of age.
- § 220. (ii) The keeper of a house, tent or wigwam, who allows any unenfranchised Indian woman to remain in such house, etc., for immoral purposes, shall be liable to a fine of between \$10 and \$100 or 6 months' imprisonment. The same penalties hold for an unenfranchised Indian woman who keeps, frequents, or is found in, a house, etc., for immoral purposes.
- § 228. (iii) Everyone is liable to a year's imprisonment who keeps a house of ill-fame, gaming house, betting house or opium joint.

Anyone who, as landlord, lessor, tenant, occupier, agent, or otherwise, has charge or control of premises and *knowingly* permits them to be used for the above evil purposes, shall be liable to a fine of \$200 and costs or to imprisonment for two months, or both.

If such landlord, etc., of such premises, after one conviction, does not exercise any right that he may have to terminate the lease, and a second conviction ensue, that landlord, etc., shall be deemed to be the 'keeper' of the house. (The



right to terminate such a lease is allowed in Ontario and Quebec, and has been asked for in the other provinces.)

§ 238. (iv) A 'vagrant' is defined, among many other things, as a keeper of a house of ill-fame or one living on the avails of prostitution.

The penalty for vagrancy is a fine of \$50 or 6 months' imprisonment, or both.

§ 216. (v) It is an indictable offence, for the purpose of gain, to exercise control or influence over a woman in such a way as to aid, abet or compel her prostitution with any person, or in general, for a *male* person, to live wholly or in part on the earnings of prostitution. Such persons are liable to 5 years' imprisonment, and on any second or subsequent offence, to be whipped in addition.

#### *F.—Age of Consent.*

§ 294. The age at which either a girl or a boy can consent to their own dishonour is 14 years. It is no defence to a charge or indictment for any indecent assault on a young person under the age of fourteen years to prove that he or she consented to the act of indecency. (The only other places in the world with such a low age of consent are Germany, Austria and Hungary.)

#### *G.—Abduction.*

§ 313. Everyone is guilty of an indictable offence and liable to 10 years' imprisonment who, against her will, takes away or detains any woman of any age and whether married or not, with intent to marry or carnally know such woman himself, or takes her for some other person.

If the woman is an heiress, and she is taken away for reasons of gain, or if being under 21 years of age she is allured from the care of her father and mother, the penalty shall be 14 years imprisonment.

*H.—Found in a disorderly house.*

§ 229. Everyone who, without lawful excuse, is found in any disorderly house shall be liable on summary conviction to a fine not exceeding \$100 and costs, and in default to two months' imprisonment.

IV. Vagrancy.

§ 238. Everyone is a vagrant who

- (a) wanders about without settled abode or visible means of livelihood.
- (b) Being able to work, refuses to do so.
- (c) Exposes any indecent exhibition.
- (d) Begg from door to door or in the street without a license signed, within six months, by a clergyman or two justices living in the municipality where the man is begging.
- (e) Obstructs a path, street, etc., or makes unnecessary noise, breaks windows, fences, etc.
- (f) Is a common prostitute and loiters on the streets at night.
- (g) Is a keeper of a house of ill-fame.
- (h) Is a frequenter of a house of ill-fame.
- (i) Having no peaceable profession, supports himself by gaming, crime, or the avails of prostitution.

Vagrants are liable to a fine not exceeding \$50, or to imprisonment, with or without hard labour, for a period not exceeding six months, or both.

## V. Theft.

The following persons are guilty of indictable offences, the maximum penalties for which are added in brackets:

§ 359. An employee stealing from an employer (14 years).

§ 360. A lodger stealing anything worth \$25 (4 years).

§ 364. Anyone stealing a letter, letter-bag, etc. (life imprisonment and not less than 3 years).

§ 369. Anyone stealing cattle (14 years).

§ 371. Anyone stealing oysters (7 years).

§ 373. Anyone stealing trees, shrubs, etc., of value of \$25, or of the value of \$5 if the thing stolen grows in a garden or park (2 years).

§ 379. Anyone stealing anything from the person of another (14 years).

§ 382. Anyone stealing anything from a ship or wharf (14 years).

§ 394. Anyone taking drift timber out of stream without the owner's consent (3 years).

## VI. Mischief.

§ 510. Everyone is guilty of an indictable offence (the maximum penalty for which is given in brackets) who seeks to destroy or damage the following things:

- (i) Any cattle, if the damage causes killing, maiming, poisoning, or wounding (14 years).

- (ii) A letter-bag, letter, etc. (5 years).
- (iii) A tree, shrub, etc., growing in a garden or park if injured to the value of \$5 (5 years).
- (iv) A grape-vine growing in a vineyard (7 years).

#### VII. Neglect before and after Child-birth.

§ 303. Anyone who administers drugs to, or uses an instrument on, a woman with the intention of producing a miscarriage, is guilty and liable to imprisonment for life.

§ 304. A woman so treating herself is liable to 7 years' imprisonment.

§ 305. The person who supplies or procures such drugs or instruments is liable to 2 years.

§ 306. Destroying a child before, or at birth, is punishable by imprisonment for life, except in the case of a person who does it in good faith to save the mother's life.

§ 271. A woman who neglects to have assistance in child-birth in consequence of which the child is injured or dies before, during or shortly after birth shall be guilty of an indictable offence, and liable, if she meant to kill the child, to imprisonment for life; but if she only meant to conceal the fact of having given birth to a child, to imprisonment for 7 years.

#### VIII. Accidents on the Road. § 285.

Anyone who is in charge of a carriage, vehicle, or automobile, and by wanton or furious driving, or racing or other wilful misconduct causes bodily harm to any person is guilty and liable to 2 years' imprisonment.

Anyone who, after an accident, does not stop to enquire or assist, but makes off to escape liability, is liable to a fine of \$50 or 1 month.

Anyone who takes a car out of a garage without the owner's consent shall be liable to \$50 or 1 month.

#### IX. Assault.

§ 290. *Assault* is the action of applying force to the person of another, either directly, or indirectly, by threats, fear, etc.

§ 291. A person who commits a common assault is liable to a year's imprisonment or a \$100 fine.

§ 292 (c). A man who beats or assaults his wife or any other female, and thereby causes actual bodily harm, is liable to 2 years' imprisonment and to be whipped.

§ 295. Everyone who commits any assault which occasions actual bodily harm is liable to 3 years' imprisonment.

#### X. Bigamy.

The penalty for bigamy is 7 years' imprisonment or 14 years for a subsequent offence.

§ 307. No one shall be guilty of bigamy if

(a) he or she in good faith believes the wife or husband to be dead.

(b) If the wife or husband has been absent continuously for 7 years, and is commonly supposed to be dead.

(c) If he or she is divorced.

(d) If the former marriage has been declared null and void by a competent authority.

§ 307 (4). No one shall be liable to be convicted of bigamy in respect of having gone through a form of marriage in a place not in Canada, unless such person, being a British subject resident in Canada, leaves Canada with intent to go through such form of marriage.

§ 310. Everyone is guilty of an indictable offence and liable to 5 years' imprisonment or a fine of \$500 who

- (a) practices polygamy, whether recognized by their individual religious sect (*e.g.*, Mormons) or not.
- (b) Who lives, cohabits, or consents to live or cohabit in any form of conjugal union with a person who is married to another, or with a person who lives or cohabits with another or others in any kind of conjugal union.
- (c) Who celebrates the rites of such illegal unions, pretending that they are binding.

## **XI. Cruelty to Animals.**

§ 542. Everyone found guilty of cruelty to animals shall be liable to a fine of \$50, or 3 months' imprisonment with or without hard labour, or both.

§ 543. The same penalty is due anyone owning and maintaining a cockpit, or who allows a cockpit to be maintained on property owned by him.

§ 544. No railway or boat company in Canada, or between Canada and the United States, shall confine animals in a car or vessel for longer than 28 hours without unloading them for food, drink

and rest for at least 5 hours, at the same time thoroughly cleaning the car and bedding it down afresh, unless such animals can feed, drink and rest properly inside the cars provided.

## **XII. The Opium and Drug Act.**

No one may import, manufacture, sell or have in his possession, or take from one place in Canada to another, any drug for other than medicinal purposes.

No one may smoke opium or have it in his possession, and anyone frequenting a place where they smoke opium shall be guilty of an offence.

## **XIII. The War Charities Act.**

It is not lawful to make any appeal to the public for donations or subscriptions or in kind for any war charity, or to raise or attempt to raise money by any bazaar, sale, entertainment, or exhibition or other similar means, unless

- (a) the war charity is exempt from registration, or is registered under this act, and
- (b) the approval in writing of the executive committee of the charity has been obtained.

This does not apply to a collection in church, and the Secretary of State may exempt any charity from registration.

To become registered, written application must be made to the registration authority in the district in which the charity works, and he shall make suitable enquiries as to the bona fides of the charity, and if it is a bona fide war charity shall give the applicants a certificate of registration.



To get a certificate the charity must

- (i) Be administered by a responsible committee.
- (ii) Keep proper minutes and accounts.
- (iii) Keep a separate bank account.
- (iv) Give all particulars required to the local registration authority.

#### **XIV. Indecent shows, theatres, literature, etc.**

§ 207. Everyone is guilty of an indictable offence and liable to 2 years' imprisonment who knowingly

- (a) Manufactures, sells, exposes, or sends through the mail any obscene literature, postcards, models, etc.
- (b) Exhibits a disgusting show.
- (c) Offers to sell, advertises, or publishes an advertisement of, any medicine, drug or article to be used as a means of preventing conception, or of causing abortion or miscarriage.

§ 208. Anyone who is the lessee or manager of a theatre and puts on, or anyone who acts in, an indecent show or play is guilty of an indictable offence.

#### **XV. Miscellaneous.**

§ 22. The fact that an offender is ignorant of the law is not an excuse for any offence committed by him.

§ 17-18. No child can be convicted under the criminal code unless it is 7 years old, and if more than 7 and less than 14 years, it shall not be convicted unless it was competent to know the nature and consequences of his conduct.



- § 63. It is lawful for a parent, guardian or school-master to use corporal punishment in reason.
- § 67. No one has a right to consent to his own death, and even if he does do so, that does not affect the criminal responsibility of the person who causes it.
- § 231. *Gambling in Stocks, etc.* Gambling in stocks, merchandise, etc., in contradistinction to bona fide trading in the same, is illegal, the penalty being 5 years' imprisonment or a fine of \$500.
- § 234. Playing cards for money or other gambling in a public conveyance is illegal, and the conductor or other person in authority may arrest the offender without a warrant.
- § 276. A person is liable to imprisonment for life and to be whipped who renders another unconscious by strangling, etc., or by drugs, in order that he may not be hindered from committing a crime.
- § 236. It is illegal to carry on a lottery except
- (i) where it is required to divide an estate left to several people by lot; or
  - (ii) to "raffle" goods at a bazaar which have been first offered for sale and where the goods are not worth more than \$50, and the consent of the mayor has been obtained.
- § 220. (a) *False Registration at Hotels, etc.* Anyone is guilty of an offence and liable to a fine not exceeding \$500 or six months' imprisonment who, at any hotel, boarding or lodging house, by registering or otherwise, falsely represents that the woman with him is his wife. (New in 1918.)

§ 220 (b). *Unfit Habitation for a Child.* Anyone who by immorality, drunkenness or other form of vice renders the home of a child, less than 16 years of age, an unfit place for that child to be in shall be liable on summary conviction to a fine not exceeding \$500 or to 1 year's imprisonment, or both, and it shall not be a valid excuse that the child was too young to understand or to be immediately affected by its surroundings. (New in 1918.)

§ 224. *Food Unfit for Human Consumption.* The having, or keeping or exposing for sale of such food is an indictable offence, and the merchant is liable to 2 years' imprisonment.

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## CHAPTER V

### LAWS RELATING TO THE PUBLIC HEALTH

#### I. Public Health Act, Chap. 218, R.S.O., p. 2967.

There is a Provincial Board of Health appointed by the Lieutenant-Governor in Council.

There must be a local Board of Health in every municipality, the council of which must appoint a Medical Health Officer (M.H.O.) who cannot be removed except for cause and with the consent of the Provincial Board.

Any resident householder may notify the M.H.O. of any nuisance or unsanitary condition in the municipality, and he shall take *immediate* steps to have it investigated and abated.

Any condition which is or may become injurious to health or hinder the suppression of disease is a nuisance, including, among other things, unclean houses, streams, overcrowding, smelling drains, and smoking chimneys.

No one may store rags, junk, etc., without permission from the M.H.O.

No one may sell the flesh of calves less than 2 weeks old for food for man.

The M.H.O. may

- (i) Inspect lodging houses, etc., and a minimum of 600 cubic feet of air space per person must be allowed.
- (ii) Inspect all houses, and, if so bad as to be incapable of repair, he may board them up and placard them as unfit for habitation.
- (iii) Inspect all dairies, farms supplying milk, etc.
- (iv) Inspect all butchers' and grocers' stores, and any other place keeping or offering food for sale for human beings.

No garbage or anything unpleasant may be emptied in or near any lake, stream, well, etc.

There is a code of rules called the Statutory By-Law, which shall be in force in every municipality until amended by its council. This by-law includes such things as the duty of the M.H.O. to inspect all streets, lanes, lots, etc., dairies, wells, etc., and the duties of citizens to keep their properties in a tidy and sanitary condition.

Whenever any person knows or has reason to suspect that anyone in his household has any communicable

disease, he shall give notice of the same to the M.H.O. within 12 hours. No person recently infected shall travel in a railway carriage or public conveyance. Nor shall any rooms or house recently infected be rented before they have been disinfected.

## II. The Vaccination Act, Chap. 219, R.S.O., p. 3014.

The father and mother of every child shall, within three months of its birth, have it vaccinated, unless a medical man gives a certificate saying that the child is not in a fit condition to be done. The doctor who vaccinates a child shall give the parents a certificate that it has been done.

The council of every city, township, etc., shall contract with one or more medical practitioners to vaccinate free those children whose parents cannot afford to pay, and all hospitals, etc., receiving aid from the government shall always keep on hand such sufficient quantities of fresh vaccine as the local doctors are likely to call for.

The M.H.O., in the event of the existence of small-pox in his district, may order everyone to be vaccinated who has not been done during the past seven years, and he may require certificates from every child attending school to show that it has been done.

## III. The Vital Statistics Act, Chap. 49, R.S.O., p. 630.

*Births.* Every doctor who attends at the birth of an infant shall forthwith give notice thereof to the Division Registrar.

Further, the parents, guardians or nurse shall register every baby within thirty days of its birth.

A man shall not be named in the register as the father of an illegitimate child unless he and the mother

request that the name be so entered, when the registrar shall write the word "illegitimate" next to the child's name.

The name of a child can be changed in the register within ten years or until it is 21 years of age.

*Marriages.* Everyone who solemnizes a marriage shall report the same to the registrar within thirty days.

*Deaths.* The occupier, or the coroner or the attending physician shall, before the body is buried, send word to the registrar, and no removal, embalming or burying of the body shall take place until a certificate of registration has been obtained.

No caretaker, etc., of a cemetery, and no clergyman shall permit the interment of a body without receiving the certificate.

The clerk of every municipality shall be the registrar of the same. He shall keep all his documents safe and secure, send particulars to the Registrar General once a year, and the latter shall compile the annual return of vital statistics for the use of the legislature.

Any person shall be entitled, at all reasonable hours, and on payment of the prescribed fee, to have a search made for, and a copy made of, any birth, marriage or death, which copy may be used as evidence in a court of law.

#### IV. Venereal Diseases Prevention Act (1918).

When any person is in prison and the Medical Officer of Health (M.H.O.) has reason to suspect that they are infected with Venereal Disease (V.D.), the M.H.O. may order that they undergo such medical examination as

may be necessary, and, if they are infected, he shall give all necessary directions as to treatment, detention and isolation.

Subject to the regulations, if a M.H.O. is creditably informed that a person resident in his district is infected with V.D., and has infected or is liable to infect other persons, the M.H.O. shall notify such person to consult a physician within a certain time, and to produce to the M.H.O. a certificate from such physician saying whether he is or is not infected. If such certificate is not produced, the M.H.O. shall notify some physician to examine such person and report to him.

If the person is infected with V.D., the M.H.O. may give orders as to treatment, isolation, etc., to be carried out by the patient.

Every hospital receiving aid from the Ontario government must make effective provision for the examination and treatment of V.D. patients.

It is illegal to advertise or allow to be advertised any device, treatment, etc., for V.D.

Every person knowing or having reason to believe that he is or may be infected with V.D., who does or suffers any act which is likely to lead to the infection of another person shall be liable to a fine of not less than \$100 and not more than \$500.

The regulations for the effective carrying out of this act contain instructions for treatment and diagnosis. They forbid the sale, suggestion, advertisement, etc., of any specific, instrument, remedy, etc., for V.D., which is not ordered by a physician.



Everyone infected shall

- (1) put himself under medical treatment of a physician, or, if poor, of the M.H.O.
- (2) Abstain from marriage, sexual intercourse, or any action likely to infect another.
- (3) Continue treatment until pronounced non-infective or, in default, be reported to the M.H.O. who may take legal proceedings against him, which, however, shall be heard in camera.

Every person suspected of infection shall be referred to by a number and not by name, and any official or other person divulging that a person is reported to be infected shall be liable to a fine and the official shall forfeit his appointment, and this section holds whether the report is true or not.

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## CHAPTER VI

### LIQUOR AND CIGARETTES

#### I. Ontario Temperance Act (1916).

The Provincial Legislatures are allowed to regulate the selling of liquor within their respective provinces, but the Dominion Parliament makes the laws relative to manufacturing liquor and to inter-provincial and foreign trade in liquor.

The present Ontario Temperance Act was passed as a war measure, and it calls for a referendum in 1919, to say whether prohibition shall be permanent. It is expected that this will be put off until the soldiers return.



Both Ontario and Dominion legislation define intoxicating liquor as liquor containing more than  $2\frac{1}{2}\%$  of proof spirits.

*Having Liquor.* The O.T.A. states that *no one may have, give or sell liquor* in Ontario except in his private dwelling house in which he resides, or as expressly permitted in this Act.

A private dwelling house must have a separate door, and be actually and exclusively used for a private residence.

It is *not* a private dwelling house if it is

- (i) partly used as a shop and partly a residence, except a doctor's office, etc., or
- (ii) partly used as a club-house, or
- (iii) Used as a boarding or lodging house if more than 3 lodgers, or
- (iv) Sub-rented to different families, except a proper apartment house, or
- (v) Connected by a passage-way with a place where liquor is sold, or
- (vi) Inhabited by anyone convicted under the O.T.A., or to whom a prohibition order has been issued.

*Drinking Liquor.* No one may drink liquor

- (i) in any place where it may not be lawfully kept, nor
- (ii) on the premises of a manufacturer, druggist, dentist, licensed vendor, nor
- (iii) in transit from one place to another, nor
- (iv) as a beverage in such places as it is allowed for mechanical, scientific, medicinal or sacramental purposes.

*Selling Liquor.* No one may sell liquor either directly or indirectly without authorization, and even then it is only legal to sell for sacramental, industrial, artistic, mechanical, scientific and medicinal purposes.

A distiller or brewer (who is licensed by the Dominion Government) may sell liquor to a person in another province, or to a foreign country, but even so they may only sell it for certain purposes and to such persons who are locally permitted to sell for such purposes.

Manufacturers of native wines may sell them in Ontario until December, 1918, after which they may not be manufactured.

Licensed vendors may sell in certain quantities to certain definite people in definite places, during definite hours. They must keep exact records of every sale and forward half-yearly reports to the Liquor Board. They may sell only

- (i) for mechanical and scientific purposes, in quantities of not more than 4 gallons (in general) on an affidavit.
- (ii) To wholesale druggists, the quantity is not limited.
- (iii) To retail druggists in quantities of not more than 10 gallons.
- (iv) To physicians in quantities of not more than 10 gallons.
- (v) To dentists in quantities of not more than 6 ounces.
- (vi) To veterinaries in quantities of not more than 1 quart.

- (vii) To individuals on a doctor's prescription, ale, beer and porter, not more than one dozen of bottles containing not more than three half-pints each, and wine and spirits not more than one quart, and alcohol or liquor mixed with any other drug not more than one pint.

Retail druggists may sell it to an individual on a doctor's prescription (or without in case of an accident near his store) in quantities of not more than six ounces, and only once on each prescription, or he may sell, to a doctor or clergyman for use in his profession, one quart at a time.

*Penalties* for breaking the O.T. law are in all cases fines or imprisonment for a first offence, and imprisonment without the option of a fine for a second offence.

*Medicated Wine* must contain enough medication to prevent it from being used as a beverage.

*Patent Medicines.* Anyone may ask the Medical Officer of Health to have a patent medicine analysed, and if there is not sufficient medication to prevent it from being used as a beverage the M.H.O. shall certify the same. Or, if the medication is such as to be harmful, the sale may be stopped. Further, a druggist who sells such a patent medicine is guilty too, unless he has made "careful enquiry" to find out its contents.

*Flavouring Essences.* May not contain more than  $2\frac{1}{2}\%$  proof spirits and may not be sold retail in bigger than  $2\frac{1}{2}$  ounce bottles. A record of sales must be kept. Essence of ginger may only be sold by a druggist, and on a doctor's prescription, or to a person, living near the druggist, who gives an affidavit as to its prospective use

and then not in a quantity of more than 2 ounces at a time.

*Canvassing* to sell liquor, either personally, by mail or otherwise is illegal.

*Minors.* No liquor may be given, sold, or otherwise supplied to a minor except by a parent or by a druggist, both on a doctor's prescription.

*Habitual Drunkards* may not have liquor in their possession or have it served without a prescription.

*Standard Hotels* may sell non-intoxicating beverages, cigars, cigarettes and tobacco, and conduct an ice cream or restaurant business without further license.

Any person may make a charge or give information for an offence against the O.T.A. Charges, etc., must be in writing within thirty days after the commission of the offence. They may be made to a Justice of the Peace, but the trial necessitates two justices or a police magistrate.

The rules of evidence are considerably altered from the usual, the burden of proof of innocence being put upon the accused.

## II. The Dominion Liquor Law.

This at present consists of the Doherty Act of 1916, which prohibits anyone from bringing or sending liquor into a province to be used there in violation of the provincial law; and also it prohibits liquor from being shipped to any place where its use as a beverage is prohibited without being labelled outside with its contents, the name and address of consignor, and the correct name and address of the actual consignee.

This has been greatly strengthened by the Dominion Orders in Council, which have been passed until the end of the war, and for one year after. They prohibit the importation into Canada of liquor after January, 1918.

They also prohibit the manufacture of liquor and inter-provincial trade in liquor after April, 1918 (as far as orders go, and May, 1918 for delivery), except by licensed persons who may only manufacture for certain definitely defined purposes, which are the same as those mentioned in the O.T.A., namely, sacramental, industrial, artistic, mechanical, scientific and medicinal purposes.

Further, native wines may only be manufactured in Ontario until December 31st, 1918.

Inter-provincial traffic is only allowed for these same purposes, and is then only allowed to be carried on by boat, railway or express companies, who have to show all such consignments on their books, which must be open to inspection.

If liquor manufactured before April, 1918, is still in bond in Ontario, it may be shipped abroad or to any province allowing its use for beverage purposes, but no one may open it in transit.

It is illegal also for a manufacturer in Ontario to sell through an agent, resident out of Ontario, who sells to an individual in Ontario by reason of the inter-provincial right of sale.

### **III. The Minors' Tobacco Sales Act, Chap. 234, R.S.O., p. 3105.**

No person, either directly or indirectly, shall sell, give or furnish tobacco in any form to a minor under 18 years of age, except on a written order of a parent or guardian for the use of said parent or guardian.

*The Dominion Act respecting Tobacco* for minors is slightly different from this, and applies of course to all the provinces. It states

1. Everyone is guilty of an offence who sells or gives tobacco in any form to a minor under 16 years, whether for his own use or not.
2. Everyone under the age of 16 years who has in his possession or smokes or chews tobacco in any form is guilty of an offence.
3. A constable shall seize any such tobacco which he finds in the possession of such minor.
4. The justice shall find out from whom such tobacco was obtained.

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## CHAPTER VII

### LAWS RELATING TO PERSONS IN INDUSTRY

There is a Branch of the Public Service of the Government of Ontario called the Trades and Labour Branch, whose duty it is to protect the persons and interests of the industrial classes, and to collect facts and statistics as to wages, hours, conditions of employment, where certain forms of labour are scarce and where plentiful, etc., etc., and to administer those Acts of Parliament which regulate these matters, such as the Factory Act, the Bureau of Labour Act, etc. This latter act enables the Department of Works to enquire into strikes, the relations of capital and labour, trades unions, etc.



I. The Factory and Shop Act, Chap. 229, R.S.O., p. 3047, et seq.

This act applies to

- (i) all laundries, except where one woman works in her own home on a custom trade.
- (ii) Every factory where power is used to run the machinery (new in 1918), and to every factory where six or more people are employed but no power is used, except that it does not apply to a home where only members of the same family are being employed.
- (iii) All shops, *i.e.*, places where goods are kept and offered for sale.

A "child" is defined as a boy or girl under 14 years of age. A "young girl" is a girl over 14 but under 18 years of age, and a "youth" is a boy over 14 but under 18 years of age.

No child may be employed in any factory, not even a canning factory. (New in 1918.)

No person under 12 years of age may be employed in any shop, and no child between 12 and 14 years may be employed in any shop unless he or she can give the employer a certificate issued under the Truancy Act, to show that he or she is exempt from attending school. This certificate has to be retained by the employer and shown to the inspector on request.

No white female person may be employed by a chinaman.

*Conditions of Work.* Factories that employ not less than thirty-five females must be equipped with proper dressing and dining rooms, with a competent woman to



supervise the same, except where local conditions make such an arrangement unnecessary, and the inspector states in writing that this is so.

Shops that employ girls and women must supply a reasonable number of seats for the use of their employees, and, when not engaged in their duties, such girls and women are to be allowed to use the same, and shall not be threatened or notified in any way that they may not use them.

The owner of every factory and shop shall

- (a) keep it in a sanitary condition.
- (b) Provide toilet accommodation to the extent of one closet for every 25 persons of each sex employed, such closets to be separate for the use of male and female employees, and with separate approaches.
- (c) Arrange for a sufficient supply of pure drinking water.
- (d) Heat it to a minimum of 60° Fahrenheit, and keep it ventilated.
- (e) Provide sufficient space to allow 300 cubic feet of room space for each employee.
- (f) Provide a washroom, towels, soap, and sufficient water.
- (g) Not allow any girl or woman to wear her hair loosely, but rolled or plaited and fixed securely to her head.

*Notices to be posted in factory and shops.* The inspector shall affix, and the employer keep affixed the following:

- (a) Any notices ordered by the government to be affixed.
- (b) The name and address of the inspector.
- (c) The rights, duties and liabilities of the employees.

Every employer shall also keep a register of the names and addresses of all women, young girls, and youths, who are employed by him, and such register shall be open to inspection by the inspector.

*Hours of Work.* No youth, young girl or woman shall be employed in any *factory* for more than ten hours a day, or sixty hours a week, such work to be done between 7 a.m. and 6.30 p.m., except where permission in writing is given by the inspector to work overtime, which permission may only be given

- (a) to make up time lost by stoppage, etc., of machinery ;
- (b) where the customs and exigencies of the trade require it.

When such permission is given, no youth, young girl or woman shall be employed for more than twelve-and-a-half hours in any one day or more than seventy-two-and-a-half in any one week, and such work must be done between 6 a.m. and 9 p.m. Further, such overtime may not be worked for more than thirty-six days in any twelve months, and, while it is being worked, there shall be allowed, in addition to the ordinary hour for the noonday meal, a further period of not less than three-quarters of an hour between 5 and 8 p.m. for tea. The exceptions to these rules hitherto allowed in the case of canning factories were repealed in 1918.

No child, youth, young girl or woman shall be employed in any *shop* for more than ten hours a day, except

- (a) where the hours are rearranged to give a weekly half holiday; and
- (b) a child between 12 and 14 years of age, and a youth, young girl or woman may be employed between 7 a.m. and 10 p.m. on Saturdays and the day next before a statutory holiday, and during the period from December 14th to December 24th inclusive, in each year.

*Half Holidays.* A Municipal Council *may* pass a by-law fixing a weekly half holiday for some or all of the shops in its district, and if it is petitioned so to do by at least three quarters of the tradesmen affected, it *must* pass such a by-law.

*Outwork Done for Clothing Firms.* Every person giving out work on clothing shall keep a register of the name and address of every person to whom such work has been given, which register the inspector may demand to see at any time.

No person shall sell or expose for sale any garments so given out to be made in any house, tenement or in the rear of any house or tenement, without a permit from the inspector stating that such house, etc., is *thoroughly* clean and otherwise in a good sanitary condition. This permit shall state the number of persons who may be employed in the said house, etc., and shall not be given until the inspector has seen the premises, and may be revoked at any time if desirable.

The plans of a new or altered factory must be passed by the inspector, and on its completion a certificate of

inspection must be obtained before the factory is operated.

## **II. Mines and Mining, Chap. 32, R.S.O., p. 405.**

No boy or girl under 14 years of age shall be employed in or about any mine, and no boy under 17 years of age shall be employed below ground.

No female, except in the capacity of stenographer, bookkeeper, etc., shall be employed in or about any mine.

No workman, except cage-tender, etc., shall be allowed to remain underground for more than eight hours in any consecutive 24 hours, except for purposes of changing a shift, and in the event of great emergency or grave economic crisis.

## **III. Workmen's Compensation Act, 1914.**

This act applies to anyone who labours for hire in any of the trades listed in either Schedule 1 and 2, including members of the family in a firm, if their wages are less than \$2,000 a year, but it does *not* apply to out-workers, clerks, farm labourers and domestic servants. Practically all trades are mentioned in either Schedule 1 or 2, Schedule 2, containing the big trusts, corporations and public utilities, Schedule 1 containing practically all of the ordinary trades and manufacturing concerns.

Employers mentioned in Schedule 1 all pay annually into an accident fund in proportion to their pay-roll and to the liability of their trade to accidents. Out of this fund all payments for compensation are paid.

Employers in Schedule 2 have to pay their claims for compensation individually.

If any workman, whose employer is listed under either schedule, is hurt or contracts an industrial disease from or in course of his employment he is entitled to compensation unless the injury disables him for a period of less than seven days, and unless it is attributable solely to the serious and wilful misconduct of the workman, and does not result in death or serious disablement.

Notice of injury must be given by the workman as soon as possible and *before* he has *voluntarily* left that employer.

A workman *cannot* sign off taking compensation. A weekly payment may, however, be commuted for a lump sum. For total disablement, a pension has to be given equal to 55% of the man's average weekly earnings during the previous twelve months, and for partial permanent disablement the pension has to be a sum which is equal to 55% of the difference between what the man used to earn and what he can now earn.

A workman whose employer is not listed under either schedule, has, if he meet with an accident in the course of his employment, a right to sue for damages if the accident were due to a defect in the machinery, tools, etc., or if it were due to the negligence of the employer. The contributory negligence of the workman is not now a bar to his claiming damages, but it has to be taken into consideration by the court in fixing those damages.

#### IV. The Employment Agencies Act, 1917, Chap. 37.

No one may carry on the business of an employment agency without a license, which shall remain in force until July 1st of the year following that in which it is

issued. A separate license has to be taken out for each branch of an agency. A licensee has to obey all the regulations made by the Lieutenant-Governor in Council regarding the fee which may be charged for procuring employees or employment, the returns to be made of people placed, etc., the amount of fee to be paid for the license, which fees may be partly or altogether remitted in the case of agencies run as one department of a charitable association.

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## CHAPTER VIII

### LAWS RELATING TO MUNICIPAL AFFAIRS

#### I. Municipal Act, Chap. 192, R.S.O., p. 2315.

Ontario is divided for the purposes of government into counties. These are subdivided into townships, which have their own councils, and certain villages, towns and cities which, if they have populations of 750, 2,000, and 15,000 inhabitants respectively may separate off from the townships and have municipal councils of their own.

*Township and Village Councils* consist of four councillors and a reeve, who is head of the council, and one deputy-reeve up to three for each 1,000 voters, each of which deputy-reeves shall take the place of one councillor.

The reeve represents his district in the County Council.

*Town Councils* consist of a mayor, a reeve (who acts also on the County Council) and one or more deputy-reeves according to the population. These are all elected by all the voters. In addition there are two or three



councillors for each ward of the town elected by those voters only who live in that ward.

*City Councils* consist of a mayor elected by all the voters, and two or three aldermen for each ward. Big cities, *e.g.*, Toronto and Hamilton, have in addition a Board of Control consisting of four members elected by all the voters.

*County Councils* consist of the reeves, and deputy-reeves of the towns, villages, and townships within the county. They elect a head from among themselves called a warden.

Cities are not represented on the County Councils.

For particulars as to who may vote for municipal elections, see Chapter I. on the Franchises.

For particulars as to School Boards and their election, see Chapter I.

The business of every Municipal Council is to govern the affairs of its own district, and to do so they may within limits pass by-laws so long as these do not conflict with any Provincial or Dominion Law. The Municipal Act gives them definite power to pass certain by-laws. For instance, *all Municipal Councils may* pass laws

- (i) to provide parks, bands of music, bathing houses, fire engines, libraries, drainage, etc.
- (ii) To give aid to hospitals, indigent persons, Victorian Order of Nurses, charitable institutions, etc., and ferries.
- (iii) To prohibit the keeping of cows, swine, etc., cruelty to animals, disorderly houses, the setting off of fireworks, gambling houses, noises, immoral plays, indecent posters.



- (iv) To regulate the sale, etc., of food, shouting or other noises, the cleaning of the streets from snow, etc.

*Urban Municipalities* may pass by-laws regulating building, forbidding wooden houses, providing firemen and apparatus, insisting on the prevention of smoky chimneys, providing markets, and preventing hucksters and grocers from buying up the produce, maintaining a system of garbage collection, licensing dogs, etc., etc.

There are many acts of the Provincial Legislature which the Municipal Councils are given to carry out. Some of these the Councils *may* apply, as for instance, the Milk Act, guaranteeing the bonds of a housing company, the Town Planning Act, etc.

Others the Councils *must* apply, as for instance, the Bread Sales Act, the Fruit Packing Act, etc.

And others again which they *may* apply on their own initiative but they *must* apply when petitioned by a certain number of ratepayers, as, for instance, the Public Parks Act, the Library Act, the Tree Act, etc.

Every municipality has to make an estimate of its financial needs for the year, and when the assessor has made out the rateable value of the inhabitants of that district, the council strikes a tax rate for the year, which must not, however, be more than two cents in the dollar, or if it needs to be more than two cents in the dollar for one year, then the council must not undertake anything further requiring it to spend money until the tax rate has fallen to that amount. This amount is exclusive of school and local improvement rates. The tax rate is usually stated to be so many mills on the dollar, a mill being one-tenth of a cent.

All meetings of a Municipal Council are public and no one may be excluded except for misconduct.

In such cities as have one, the Board of Control prepares the estimates, calls for and awards tenders, nominates heads of departments and dismisses them, and reports on all these things and the many others of which it is the initiating body, to the Municipal Council as a whole, which then votes on the reports received. The Council cannot reject a suggestion from the Board of Control unless on a two-thirds vote, but it may send a subject back to it for reconsideration.

Every town and City Council must keep a police station at which the police magistrate if there is one, or, if not, the mayor must attend daily. It must also pay sufficient policemen, who are usually appointed by the Board of Police Commissioners which consists of the Mayor, a Judge of the County or District Court and the Police Magistrate.

## **II. The Local Improvements Act, Chap. 193, R.S.O., p. 2549.**

A Municipal Council may undertake certain improvements to a plot of land, such for instance as opening or improving a street, draining, bridging or paving it, building a side-walk to it, extending a system of water, gas, electric light, etc., to it, and the cost thereof shall be partly or wholly charged by means of a special local improvement rate against the land immediately abutting upon the street and benefited thereby.

The Council may undertake the improvements because of

- (i) a petition signed by at least two-thirds of the owners, representing at least one half the value of the lots liable to the special assessment, or
- (ii) on its own initiative, after giving notice to the owners, who may petition against it, or
- (iii) on sanitary grounds.

Part of the cost of a local improvement may be borne by the whole city if everyone benefits by it.

In the case of a private drain connection, water service, pipe or gas connection, the cost to any house shall be the cost thereof from the centre of the street to the street line, no matter where the main goes.

### III. Statute Labour Act, Chap. 196, R.S.O., p. 2683.

Every male inhabitant of a city, town or village over 21 years and under 60 years of age (and not a soldier, sailor or militia-man) who is not assessed for taxes shall be taxed from one to five dollars annually as the council shall decide, instead of performing statute labour. In townships he shall work for one day a year on the roads.

Every other male of the correct age shall perform statute labour for a number of days in proportion to his assessment, or he may commute this statute labour for a tax which the local council may fix, but which may not exceed \$3 for each day's labour. This tax is added to a man's assessment charges.

### IV. Assessment Act, Chap. 195, R.S.O., p. 2577.

All real property, and all income derived either within or out of Ontario, as well as businesses, professions, etc., shall be liable to taxation except crown properties,

churches, schools, places of learning from which profits are not made, city and charitable institutions, roads, public parks and squares, the pay of soldiers and sailors, pensions payable from the government treasury, the income of a farmer from his farm, etc., and also the annual income from *personal* earnings, or from any pension, etc., the result of personal earnings or services, up to \$1,500 in cities or towns and \$1,200 elsewhere *if the person is a householder or the head of a family*, or up to \$600 in cities or towns and \$400 elsewhere if the person is not a householder or the head of a family. Further, an income of \$400 from any investment is exempt from taxation if the whole income from any source does not exceed \$400.

Also rent or other income derived from real estate, except interest on mortgages, is not liable to income tax, nor are the dividends from stock held by any person in a company whose income is assessable in Ontario, or in government securities or war loans.

(With regard to persons whose income is \$400 or more being able to vote, see Chapter I. on the Franchises.)

The "business tax" mentioned above is in addition to the tax on the property on which the business or profession is carried on. It is computed by reference to the assessed value of that property and different businesses pay differing but definite percentages on that value. For instance, distillers pay 150% of the assessed value of their property, manufacturers 60%, doctors, dentists, lawyers, etc., 50%, places of amusements, etc., 25%, and so on.

## CHAPTER IX

## EDUCATION

**I. The Department of Education Act, Chap. 265, R.S.O., p. 3243.**

The educational matters of the province are under the care of the Minister of Education, who has wide powers in the administration and enforcement of the statutes and regulations respecting public and separate schools, high schools, collegiate institutes, playgrounds, school gardens, public and school libraries, training colleges for teachers, etc.

He may make regulations regarding the establishment and organization and equipment of schools, courses of study to be followed, gardens, cadet corps, etc.; the books to be authorized for use in all schools, teachers' certificates, the division of the money granted for education between the schools, etc., etc.

Regulations have to be submitted to Parliament within a week of its convening, and that body may by resolution rescind any regulation of which it disapproves.

The Lieutenant-Governor in Council may appoint a Superintendent of Education, who holds office during pleasure, and who has general supervision, under the Minister, of all classes and examinations in the different schools.

**II. The Public Schools Act, Chap. 266, R.S.O., p. 3258.**

All persons between the ages of 5 and 21 years have a right to attend some public school in the municipality unless their parents are separate school supporters.

Children between 4 and 7 may attend kindergarten classes where such exist.

No child need study any religious book or take part in any religious exercise against the will of its parent.

The Municipal Council of every township shall divide its territory into school sections to be known by number. No section shall be formed which contains less than 50 children between the ages of 5 and 21 years, unless such section is more than 4 square miles in area, or is so divided by lakes, etc., as to make it impossible for the children to reach the section school. Further, if at certain times of the year the condition of the roads or any other cause makes the public school in any section inaccessible, the minister may require that a second school must be opened temporarily.

The ratepayers of two or more sections may, at a meeting called for the purpose, pass a resolution to unite the sections and have a consolidated school, and may make arrangements for the conveyance of children to and from the school.

The Council of every municipality levies and collects such rates as are necessary for the school purposes (based on the year's estimates of the Board of Education) and shall pay the same to the Treasurer of the Board from time to time as needed.

The local Boards of Education *shall* provide adequate accommodation for all children between 5 and 16 years resident in the municipality; determine the number and grade of schools to be established; engage and dismiss the teachers and decide on the conditions of their employment; if deemed expedient, establish kindergartens



and classes for industrial training, and the teaching of household science, also school gardens and summer schools; provide and pay for such dental and medical inspection as may be deemed expedient; purchase free books and supplies for the use of pupils if deemed expedient, or collect not more than 20 cents per month per pupil for them; permit the schoolhouse to be used for any educational or other lawful use; encourage cadet corps, gymnastic exercises, and school games.

A special meeting of the Board shall be called at the request of 2 trustees or of 10 ratepayers.

The assessor of a municipality, in making up his assessment roll, shall write in a book and return to the Board of Education the name, address, and age of every child between 8 and 14 years of age in that municipality. And also make a census of all the children between 5 and 16 years, and 5 and 21 years, and make a return thereof to the Board.

The Council of an urban municipality may, on the application of the Board of Education, pass a by-law for borrowing money for the purchase and enlargement of school sites, obtaining a water supply, the erection of schoolhouses, drill halls, etc., and their equipment, and for repairs and improvements to school properties.

Such by-laws need not be submitted to the electors, but if the Council refuse to pass such by-laws, the Board may demand, and the Council must concede, that the question of raising such money be submitted to the public school supporters, and, if passed by them, then the Council must pass the required by-law.

It shall be the duty of every teacher to teach faithfully the lessons prescribed, and from the authorized



text-books; to maintain order and discipline, and inculcate by precept and example respect for religion and the principles of Christian morality, and all the virtues; and to use the English language in all teaching, except where the pupil understands no English, etc., etc.

Before being allowed to teach, every teacher must hold a certificate of qualification, which will be given to any British subject of good moral character and physically fit for the work, and who passes the examinations prescribed by the regulations. Certificates may be suspended by an Inspector for inefficiency, misconduct, or a violation of the Act or Regulations, one of which is the use only of prescribed text-books.

The Council of a township may engage properly qualified persons to give instruction in agriculture, manual training and household science in the public schools, and such courses shall, as far as practicable, be open to all residents in the school section or municipality.

### **III. Continuation Schools Act, Chap. 267, R.S.O., p. 3327.**

Subject to the regulations and the consent of the Minister, the Public or Separate School Board of any municipality or school section may establish a continuation school to carry on the work of the public school by a two years' course.

Pupils whose parents are supporters of the school may be admitted free, or charged such fees as the Board may direct, but such fees shall be uniform to all pupils.

### **IV. The High Schools Act, Chap. 268, R.S.O., p. 3332.**

County or City Councils may, with the consent of the Minister, establish as many high schools in their districts as they deem expedient. Such schools are under the

direction of a High School Board, consisting in general of 6 trustees, appointed by the Councils concerned. The schools offer a four years' course leading up to Matriculation and the University, or to a training school for teachers.

The trustees have much the same duties as the public school trustees, and they may establish classes in military instruction and provide uniforms for the same.

They may annually award 5 scholarships to the pupils of the public or separate schools situate in the high school district, if their parents are contributing to the support of the high school.

Pupils who have passed the entrance examination into a high school, and others who have passed through a course equal to that of the four forms of the public schools, may be admitted to high school.

#### **V. Boards of Education Act, Chap. 269, R.S.O., p. 3357.**

If a municipality have both a Public and High School Board it may decide to unite the two Boards, or, if the electors so decide, a Municipal Board of Education may be formed, consisting of those trustees elected by the ratepayers who are public school supporters, plus one or two members appointed by the Separate School Board, who can only vote on matters pertaining to the High Schools, plus in certain cases members appointed by the County Councils.

#### **VI. Separate Schools Act, Chap. 270, R.S.O., p. 3366.**

Separate Schools may be established for coloured people or for Roman Catholics (or where the public school teacher is a Roman Catholic, for Protestants), if

five or more heads of such families resident in the district ask for the same.

Separate Schools share in the Legislative grants on the same conditions as Public Schools; otherwise they are maintained by the ratepayers who have expressed a wish to be classified as separate rather than as public school supporters. They elect their own trustees, three for each separate school. The duties and powers of the trustees and teachers are the same as for the public schools.

**VII. The Industrial Schools Act, Chap. 271, R.S.O., p. 3402.**

A School Board of a city or town may establish an Industrial School, or may delegate its powers, rights and privileges so to do to a philanthropic Society.

Children under 16 years of age, apprehended for any crime, or found wandering alone, or destitute, or a habitual truant, shall be brought before a judge in a separate place to that used by grown up prisoners (a juvenile court if there is one), and may be sent by the judge to the Industrial School. Within 3 years such child shall be given back to its parents, or be apprenticed or placed in a foster home, as the Board of the school decides, but he may be taken back to the school again if desirable. The Board shall keep track of every child after it leaves the school, and possesses the rights and powers of a parent of the child until he or she is 21 years old.

A child sent to any Industrial School may live outside the school with respectable people if desired, but the control of the Board over such child is not thereby lessened.

Parents may be ordered to contribute up to 1 dollar and 25 cents a week for the child's maintenance in an Industrial School.

**VIII. The Special Classes Act, Chap. 272, R.S.O., p. 3410.**

The various education Boards may establish special classes in connection with any city school for children who are backward or abnormally slow in learning, or who, from physical and mental causes, require special training and education.

Children may be admitted to such classes upon the application of the parents, or upon the report of the inspector and the principal of any school.

The Board may provide for medical inspection for such children, and, on the recommendation of the medical inspector, may provide medical attention for those children who would not otherwise get it.

The medical inspector shall also visit the homes and consult with and advise the parents of the children under his care.

**IX. The Schools for the Deaf and Blind Act, Chap. 273, R.S.O., p. 3412.**

Children between 8 and 14 years of age who are deaf or blind must be sent to the school at Belleville or Brantford as the case may be, unless they are being adequately educated at home.

No child can be sent to these schools whose parents are not bona fide residents of Ontario and no person is eligible who is over 21 years of age unless under special circumstances and with the consent of the Minister.

**X. The Truancy Act. Chap. 274, R.S.O., p. 3414.**

Every child between 8 and 14 years of age must attend school for the full term for which the school in its municipality or section is open, unless

- (a) the child is under efficient instruction at home or elsewhere.
- (b) The child is sick or unavoidably absent.
- (c) There is no public school within 2 miles of the child's home if he is under 10 years of age, or within 3 miles if he is over 10 years of age.
- (d) There is not sufficient accommodation for him.
- (e) The child has reached a grade corresponding to the fourth form of the public school.
- (f) He is exempted by a justice of the peace or the principal of the school on the grounds that the services of such child are required in husbandry, or in urgent and necessary household duties, or for the necessary maintenance of such child or of some person depending upon him. In these cases a child may be given a certificate permitting him or her to be out of school for a maximum time of six weeks in each term.

No child under 14 years of age, without such a certificate shall be employed by anyone during school hours, while the school session is on.

The Police Commissioners, or where there are none, the Municipal Council of every city, town and village *must* appoint, control and pay one or more truant officers for the enforcement of this act.

The Council of a county or township *may* appoint such officers.

The teacher or the principal of every public and separate school shall, once a month, report to the truant officer the names and addresses of those children who have been absent from school without excuse. The principal shall compare the assessment roll census of children who should attend with those attending, and shall notify the officer of those who do not come to school.

The truant officer *must* institute, or cause to be instituted, proceedings against a parent or guardian who does not see that his or her children go to school.

#### **XI. The Adolescent School Attendance Act, Chap. 62, 1916.**

Any School Board may pass by-laws requiring the attendance of the children up to 17 years of age at day or night classes to be provided by them. Such a by-law must be passed at a special meeting of the Board called to consider this question after public notice has been given for four weeks.

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## **CHAPTER X**

### **THE PRISON SYSTEM**

There are in Ontario, for the more effective punishment and reformation of prisoners a series of prisons, which are used for grading prisoners according to the length of their sentence. Thus each county or big city has its lock-ups and its common gaol for short sentences, there is one Central Provincial Reformatory each for men and women whose sentences go up to two years



less a day, and finally there are penitentiaries under the Dominion Parliament for those whose sentences are for two years and over. These are each governed by their own acts of Parliament.

**I. Municipal Act, Chap. 192, R.S.O., p. 2433.**

In this Act provision is made for each county and city to have its court-house and its gaol, for which it must provide food, fuel and supplies.

The Council of every municipality may have a "lock-up" where persons may be imprisoned for not longer than 10 days. A Justice of the Peace may order a person, charged on oath with a criminal offence, to be detained in a lock-up for two days, pending a first trial, or a person found drunk and disorderly in a public place may be there detained for not more than 24 hours.

If a man is convicted of such drunkenness twice in three months, the police magistrate or justice may order him to be committed to an industrial farm (*vide* below) for an indeterminate sentence not exceeding two years.

**II. Gaols Act, Chap. 293, R.S.O., p. 3533.**

The plans of all county or city gaols have to be submitted to the Inspector and must contain provision for

- (a) the proper classification of prisoners according to their age, sex, and cause of confinement.
- (b) Their safe custody without severe treatment.
- (c) Such accommodation for gaolers and turnkeys as will give them ready access to the prisoners and convenience in overseeing them.
- (d) Prevention of intercourse between the prisoners.



- (e) Good sanitation.
- (f) Combining employment with reformation.
- (g) Proper airing and exercise for prisoners outside of the building.

If the number of prisoners in a county gaol for the last two years has not exceeded four per day, two counties may decide to run only one gaol, the other retaining only a lock-up for persons awaiting trial.

The Lieutenant-Governor in Council may direct and authorize the participation by the prisoners in some specific work outside the prison walls, the earnings of the prisoners being divided between the province and the county.

No liquor or drugs of any sort are to be allowed inside the prison without a doctor's prescription.

### **III. Industrial Farms Act, Chap. 292, R.S.O., p. 3529.**

The Councils of counties and cities may pass by-laws to buy and equip an Industrial Farm. The consent of the electors need not be asked, but the amount owing must not be more than \$50,000 at any one time.

Persons convicted under any Provincial Act or municipal by-law, or under criminal law, may be committed to the Industrial Farm, or they may be transferred thither from the gaols.

Regulations for running the Industrial Farms are made by the Lieutenant-Governor in Council, and may require every prisoner to work at some useful occupation, and may arrange that the earnings of the prisoner, or a part of them, go towards the prisoner's maintenance and that

of his family, and to the upkeep of the farm, and to help the prisoner to rejoin his friends on his discharge.

The county and city Councils may appoint Probation officers to aid in the reform of such persons as are discharged on parole (*vide* below, Ontario Board of Parole).

**IV. The Ontario Reformatory Act, Chap. 287, R.S.O., p. 3509.**

The Central Prison of Ontario is now to be called the Reformatory for Ontario.

No one shall go to the Reformatory for less than three months or for more than two years less one day, which may be an indefinite sentence.

The Reformatory shall be fitted out with the requisites for useful labour, and the money received from the same paid into the bank, and, at the end of any year, the balance shall be handed over to the Treasurer of Ontario.

No liquor or any narcotic drug shall be brought into the Reformatory for the use of any officer, employee, or inmate on any pretence whatever.

No prisoner suffering from an infectious disease shall be discharged, but shall be allowed to remain until better.

The Ontario Board of Parole shall take cognizance of a man's behaviour before paroling him.

**V. The Andrew Mercer Reformatory Act, Chap. 228, R.S.O., p. 3514.**

The Mercer Reformatory is the Provincial prison for females who are sentenced to more than two months, but not more than two years less a day, which may be an indeterminate sentence. A record of each inmate's

behaviour is to be kept in order to encourage her to earn a discharge on parole.

The Reformatory shall be furnished with the requisites for beneficial labour. (Nothing is said about the money earned ; presumably it goes to the Provincial Treasurer like that from the men's reformatory).

No liquor, drugs, etc., shall be allowed inside the building. No prisoner, suffering with venereal diseases or an infectious disease, shall receive her discharge, but shall remain until cured. (See Venereal Diseases Act under Public Health for treatment of all infected prisoners.)

**VI. Industrial Refuge for Females Act, Chap. 289, R.S.O., p. 3518.**

Any female between the ages of 15 years and 35 years, sentenced, or liable to be sentenced, to imprisonment in a common gaol, may be committed to an Industrial Refuge on an indeterminate sentence not exceeding five years. A record of her conduct shall be kept to encourage her to earn a discharge on parole. If she prove incorrigible in the refuge she is liable to be returned to a gaol or the reformatory.

If she attempts to escape she may be arrested without warrant by any peace officer.

No inmate shall be discharged with venereal disease or an infectious disease, and if a doctor states that an inmate is so feeble-minded as to be unable to take care of herself after her discharge she shall not be discharged until the doctor so orders.

No prisoner shall be allowed to leave if suffering from venereal diseases or an infectious disease, but shall be made to remain until cured.

This difference of treatment between men and women prisoners who are suffering with venereal diseases is now equalized under the Act for the Prevention of Venereal Disease.

**VII. Houses of Refuge Act, Chap. 290, p. 3520.**

Every County Council must, and every city council may, maintain a House of Refuge.

A House of Refuge is not a prison, but it is given here because, besides being used for the indigent poor who are incapable of working and the feeble-minded persons who yet are not insane, it is used also for the poor who *can* but *will* not work.

All persons in a House of Refuge may be compelled to work in as far as they are able, and their earnings are applied to their own and their dependents' maintenance.

No female inmate between 16 and 45 years of age who is feeble-minded shall be discharged, and no child between 2 and 16 years shall be admitted.

**VIII. The Prisons and Reformatories Act, Chap. 148 of the Criminal Code, 1908. (A Dominion Act.)**

Regulations are given in this Act concerning the treatment of boys and girls under 16 years of age which apply to the whole Dominion, but in Ontario, in those places which have accepted the Juvenile Delinquents Act, these cases are covered by that Act (*vide* laws relating to children).

**IX. The Penitentiary Act, Chap. 147, Criminal Code, 1908. (Dominion Act.)**

All Penitentiaries are under the control of the Dominion government. A person convicted under any

Dominion or Provincial law, to a term of imprisonment of two years or more is sent to the penitentiary in the province where he or she was sentenced.

Every such convict shall be clothed at the expense of the government in suitable prison clothes, shall receive a bed, and sufficient covering and food, and shall, except when sick, sleep alone at night.

Every convict shall, except when sick, be kept hard at labour during ten hours of the day, exclusive of meal times. They may be engaged on labour for the crown, but no labour shall be let out to a company or person.

Female convicts shall be kept in a separate ward, under the care of a matron and female officers.

Remission of sentence may be earned for good behaviour, to the extent, at most, of six days for every month he is well-behaved, until he has earned seventy-two days of remission, after which he can earn ten days remission for every month. Every convict who escapes or attempts to escape, forfeits all the remission which he has earned.

No convict need be discharged in the months of December, January or February, but at his own request may remain until March 1st.

No one suffering from acute or infectious disease shall be discharged until safely recovered.

Every discharged convict, who was sentenced to 2 years or more, shall on his discharge be furnished (at the expense of the government) with a suit of clothing other than prison garments, transportation to the place where he was sentenced (or any place nearer than that), and

such further sum up to \$10 as the warden deems to be necessary.

Prisoners' effects are taken away on entry and returned on discharge.

Their letters and parcels, both incoming and outgoing, may be opened and examined by the warden. They may be censored or destroyed if considered necessary.

**X. Ticket of Leave Act, Chap. 150, Criminal Code. (Dominion Act.)**

The Governor-General may grant to any prisoner, either in a gaol, reformatory or penitentiary, a "ticket of leave." He then regains his freedom under certain conditions, but his sentence still holds, and if he breaks the conditions or is convicted of any further crime, he shall complete his previous sentence in addition to his new sentence.

He (or she) shall notify the chief of police in which he resides the exact situation of his residence, and shall report either personally or by letter once a month to the chief of police or sheriff of the city, town, county or district.

**XI. Ontario Parole Act, Chap. 63, 1917.**

There shall be a Board of Parole for Ontario, composed of seven persons, whose duty it shall be to

- (1) make regulations defining the conditions under which prisoners may be paroled, and how prisoners shall be dealt with if they break their parole.
- (2) Subject to these regulations to release any prisoner on parole.



- (3) To assist prisoners on parole to procure employment with trustworthy persons, and to obtain necessary tools and equipment for such work.

For the Industrial Schools Act, see Chapter IX.

For the Juvenile Courts Act, see Chapter II.

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## CHAPTER XI

### WILLS, ETC.

#### I. Wills, Chap. 120, R.S.O., p. 1267.

The modern law on wills holds good for every will, made or remodelled since 1874.

Persons can dispose of everything by will, subject to the Devolutions of Estates Act and the Accumulations Act.

For a will to be valid

- (i) It must be executed by a person of 21 years and upward.
- (ii) It must be in writing (*i.e.*, not oral), signed at the foot or end by the testator by his signature or his mark.
- (iii) The signature or mark must be witnessed by two people, present at the same time, who sign the will in the presence of the testator and of each other.

Marriage invalidates a will unless made in view of marriage and that fact is mentioned in the will.



No witness to a will may take any gift under the will except in payment of debts, but an executor named in a will may benefit under it.

No alteration to the wording or sense of a will is valid unless it is signed in the margin by the testator and witnesses. If a legatee dies before the testator, the legacy reverts to the residuary legatee.

The word 'heir' or 'heirs' used in a will means that person or persons to whom the real estate would go in case of intestacy.

If land be willed to two people, they shall be reckoned as tenants in common, not as joint tenants.

## II. Rights of Posthumous Children, Chap. 109, R.S.O., p. 1199.

Where any estate is left to the children of the testator, if he have a child born after his decease, that child shall inherit equally with the others.

## III. Intestacy. Devolution of Estates Act, Chap. 119, R.S.O., p. 1253.

*If a man dies intestate leaving*

(A) *a wife but no children, and*

(i) his net income (real and personal property) is less than \$1,000 the wife gets it all.

(ii) His net income (real and personal property) is more than \$1,000, the wife takes \$1,000, and *in addition* she can either

(a) Take her dower, (*i.e.*, one-third part of all the real property of which her husband has been possessed during their married life) plus half of the man's personal property at death (the remaining half

of his personal property being equally divided between his next of kin of an equal degree, or their representatives, no collaterals being recognized after his brothers' and sisters' children), or

- (b) choose to take her share of real property possessed by the man at his death rather than dower, in which case she will have half of his real and personal property, reckoned after the first \$1,000 has been paid to her, the remaining half of his personal property going as before, to the next of kin.
- (B) *A wife and children.* His wife takes one-third of his personal property, and the rest goes in equal portions to the children or their representatives.
- (C) *No wife but some children.* His personal property is divided equally among his children.
- (D) *No wife and no children.* His personal property is divided equally between his next of kin of equal degree.
- (E) *A wife and children, one of whom later dies intestate and without wife and children,* the intestate child's property shall be equally divided between the wife and the remaining children.

If a married woman die intestate leaving

- (A) *a husband and no children.* One-half of her real and personal property goes to her husband, and the rest goes as if he had predeceased her.
- (B) *a husband and children.* One-third of her real and personal property goes to her husband.

The husband in either case may choose to take that share of his wife's property which would be his share as tenant by courtesy, and if he does so he shall have no further interest in her property.

If any person dies in Ontario, intestate and without leaving any known heir, the Attorney-General may apply for letters of administration of the estate. He may sell the property, and if he does so, shall put the proceeds in a separate bank or invest it in some safe way; if an heir is found within ten years, he or she, on proving their title, shall receive the money with reasonable interest, and if an heir is not found within that time, the money shall be transferred to the Consolidated Fund.

#### **IV. Escheats and Forfeitures Act, Chap. 104, R.S.O., p. 1180.**

Land or personal property coming to the Crown through intestacy or otherwise by forfeiture shall be taken possession of by the Attorney-General in the name of the crown.

The Lieutenant-Governor in Council may grant such land, or parts of it, to any person for the purpose of restoring it to a person who had a moral claim on it, or to carry out the deceased's known intentions with regard to it, or to reward anyone who discovered the land for the crown.

#### **V. Trustees Act, Chap. 121, R.S.O., p. 1277.**

Trustees having money in their control may invest it in

- (i) stocks, debentures or securities of the Dominion of Canada or of any of the Provinces, or

- (ii) in stocks, etc., guaranteed by the Dominion or Provincial Governments, or
- (iii) debentures of any municipality in Ontario, including those issued for public school purposes, or
- (iv) securities which are the first charges on land held in fee simple in Ontario, Manitoba, Saskatchewan, and Alberta, or
- (v) any incorporated society authorized to lend money upon mortgages of real estate having a paid-up capital of not less than \$400,000, a reserve fund of not less than 25% of its paid-up capital, and the stock of which has a market value of not less than 7% premium.

**VI. Dower, Chap. 70, R.S.O., p. 928.**

A widow is entitled to dower, *i.e.*, a third part of all land of which her husband has been possessed during their married life, except that in which she has "barred" her dower, or that which he held in trust for others.

She may stay in her late husband's chief residence for 40 days, within which time her dower shall be assigned to her and during which time she is entitled to her reasonable maintenance.

An action for dower must be brought within ten years of her husband's death, or of that time at which she ceased to occupy his land, and even then recompense for unpaid dower can only be claimed for a maximum of 6 years.

A widow may choose, within 6 months of her husband's death, by a deed in writing, witnessed by at least one other person, to take, in lieu of dower, her share of the

real property of her husband which he possessed at death, under the Devolution of Estates Act. (*vide* Intestacy.)

She shall bar her dower in all land which her husband has parted with, or mortgaged, during their married life, if

- (i) she has signed the deed of conveyance or mortgage with her husband ; or
- (ii) she leaves her husband and lives in adultery ; but if her husband forgives her and she returns to him, her right of dower shall be returned to her ; or
- (iii) if she lives away from her husband for 5 years, and he during that time, sells or mortgages his land.

A mortgage can only bar a dower sufficiently to pay the mortgagee, and a wife has a right to dower out of any surplus.

A married woman of under 21 years of age, if of sound mind, may release her dower by joining her husband in a deed of conveyance or mortgage in which a clause is inserted to bar her dower.

#### VII. Tenancy by the Courtesy, Chap. 109, R.S.O., p. 1197.

If there have been children, whether alive at the time or not, a husband who survives his wife shall, subject to the Married Women's Property Act (*q.v.* page 20), be entitled to an interest for life in all such land possessed by her at her death, which she has not disposed of by will or deed. But if there have been no children of the marriage, he has no right in any of his late wife's land, except such as she shall have willed to him, or such as he shall have become entitled to under the Devolution of Estates Act. (See Intestacy.)

If a husband is entitled to tenancy by courtesy, but is insane, living apart under circumstances which would entitle his wife to alimony, in prison or has deserted her, a judge may give the wife the power to sell, mortgage or convey the property without the husband's consent. (Conveyances of Married Women's Act, Chap. 150, R.S.O., p. 1643).

Where many people, including doweresses, tenants by the courtesy, mortgagees, creditors, etc., are entitled to share in the real property of a testator or person dying intestate, the Supreme Court may order the land to be sold before partition is made, and in so doing shall decide on the lump sum or annuity to be paid to doweress or tenant by the courtesy, in lieu of their rights.

No such sale shall take place within one year of the testator's death.

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## CHAPTER XII

### LAWS RELATING TO PROPERTY

#### I. The Conveyancing and Law of Property Act, Chap. 109, R.S.O., p. 1188.

All exchange or partition of property is void except by deed. A conveyance of land involves everything on the land, buildings, fences, etc., and all rights and privileges pertaining to the land, rents of such lands, etc., etc.

Conveyances made to defraud creditors are null and void, unless made to some third person for value (chap.



105). Conveyances made to defraud purchasers are null and void.

The value of lasting improvements made to land in the belief of a title afterwards found to be void shall be refunded.

If a tenant for life is absent for 7 years, and no one knows if he is dead or alive, the next heir shall take the property, but on condition that he returns it with compensation should the previous heir turn up.

Unless otherwise stated an auction of land shall be without reserve, and it is then illegal for the owner to bid.

Conveying, leasing and mortgaging property is invalid unless done by deed. Chapters 115, 116 and 117 of the Revised Statutes of Ontario, 1914, give the wording of a legal form of deed for these purposes, but printed copies of each can be obtained at any legal stationers for about 5 cents each.

## **II. Mortgages, Chap. 112, R.S.O., p. 1206.**

An owner of land (the mortgagor) can borrow money from another (the mortgagee) and give him certain rights over his property as security for the money, such rights to cease when the mortgagor has paid back the principal and interest in full. This is called mortgaging land. If mortgaged property is insured and damage ensue, the mortgagee has the right to demand that either the insurance money be used to repair the damage done or it be used to repay part of the principal lent on the property.

The right of a mortgagee to distrain for interest due on a mortgage is limited to the goods and chattels, and



only such of them as are not exempt to restraint for debt (Chap. 15).

If a mortgagor does not pay back the principal within four months of being due, or the interest within six months, or fails to pay any premium due on an insurance on the property, the mortgagee has the right, after giving two months' notice to the mortgagor and all other mortgagees on the property, to sell the property and the money obtained shall be used for the following purposes in the order named, viz.:

- (i) the expenses of the sale;
- (ii) the interest due on the mortgage;
- (iii) the principal, and lastly the claims of the 2nd, 3rd, etc., mortgagee in the order of their priority.

### III. Registration of Deeds Relating to Land, Chap. 124, R.S.O., p. 1322.

Every county has a registry office which is used for keeping a register of deeds relating to land, and of other valuable documents. (See Custody of Documents Act, Chap. 125, R.S.O.)

Most land already subdivided into lots and having changed hands once or more times since it originally belonged to the crown, has already been registered in the registry of the county where it is situated. Land which is newly subdivided may be so registered, provided the plan thereof is stamped with the approval of the Municipal Council under the Town Planning Act.

Everything which happens to a plot of land after it is once registered, such as a charge being put upon it, or its

being mortgaged, leased or sold, etc., is entered on the original title deed of ownership of the land, which, or an authenticated copy of it, is deposited with the Registrar. Further, discharge of a mortgage, a cessation of the charge, etc., are all entered on the deed.

When first applying to the Registrar to register a given plot of land, the applicant must prove that he is the owner of the land, and very strict rules of procedure are laid down for this in the Land Titles Act. (Chap. 126, R.S.O.)

On payment of the given fee, a registrar will search, and make certified extracts of, any title deeds, etc., in his possession.

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## CHAPTER XIII

### LANDLORD AND TENANT

#### I. Landlord and Tenant, Chap. 155, R.S.O., p. 1661.

In every agreement between a landlord and tenant, whether in writing or not, it is understood that, if the rent is not paid within fifteen days of being due, the landlord may break the lease. With the exception of this reason, a landlord shall not break the lease for breach of covenant without warning the tenant of his breach and giving him a chance to repair it or pay damages.

A landlord may break a lease if his tenant is convicted of keeping a disorderly house, and the Criminal Code (Dominion Law) states that if a landlord does not break

his lease and his tenant again keeps a disorderly house, the landlord will be deemed also to be a "keeper."

In any agreement about not sub-letting without the landlord's consent, it shall be understood that such consent will not be unreasonably refused.

If a tenant agrees to pay taxes, he need not be compelled to pay local improvement rates.

A week's notice (or a month's) to quit, ending with the week (or the month) shall be sufficient notice to terminate a weekly (or monthly) tenancy.

Certain goods and chattels are exempt from being distrained for rent, and the persons claiming the exemption must point these out. These goods shall only be exempt if the tenant vacates at once.

Only the goods of the tenant himself and of his immediate family who dwell with him can be taken. A boarder or lodger of the tenant wishing to save his goods must serve the landlord with a declaration that the tenant has no title to his goods.

If a tenant carries off his goods to escape distraint, the landlord, or his agent, may, within thirty days, seize such goods wherever found, unless they have been bought in good faith and for value by a third person.

## **II. The Innkeepers Act, Chap. 173, R.S.O., p. 1831.**

Every innkeeper, boarding or lodging-house keeper shall have a lien on the baggage and property of his guest for the value of the food or accommodation furnished on the latter's account.

If such account is not paid within three months, the innkeeper may sell the things by public auction after

giving one week's notice in a local newspaper, and the notice must give the name of the guest, the amount of his indebtedness, time and place of sale, name of auctioneer, and a description of the baggage to be sold.

No innkeeper shall be liable for the loss of his guest's property to a greater value than \$40, except if such goods have been deposited expressly for safe-keeping with the innkeeper, or if the loss was due to wilful negligence on the part of the innkeeper or his servants.

An inn, or boarding-house keeper can only hold the wearing apparel of a servant or labourer for money due to the value of \$6, and on payment of that sum or any less sum due, such wearing apparel must be immediately given up.

All leases for a term of years are null and void unless made by deed.

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## CHAPTER XIV

### LAWS RELATING TO THE PUBLIC LANDS

#### **I. Public Lands Act, Chap. 28, R.S.O., p. 380.**

The Lieutenant-Governor in Council may set aside stretches of the Crown Lands which he deems suitable for settling, and free grants of this land shall be made to certain persons, viz.:

- (i) The heads of families with a child or children under 18 years of age living with them. Such people may have a free grant of 160 acres, with a chance of buying 80 acres adjacent at a price of 50 cents an acre; and

- (ii) Males of eighteen years and upward without children, who may have a free grant of 160 acres.

No patent for the land is granted until three years after the location on the land or until the locatee

- (i) has cleared and cultivated at least 15 acres in all, and 2 acres each year; and
- (ii) has built a habitable house 16 by 20 feet; and
- (iii) has lived on the property for 3 years and until the patent is given.

Pine trees on such free grants remain the property of the crown, except such trees as are cut and used for building, and those on land actually cleared for cultivation.

The government may advance sums to settlers for seeds, and loans up to \$500 to suitable persons.

## **II. Mines and Mining Act, Chap. 32, R.S.O., p. 405.**

No person shall prospect for minerals under Crown Lands without a license, but any person can get such a license on paying the prescribed fee.

A licensee finding valuable minerals may stake out a mining claim over a square of 40 acres, and must apply within 15 days to have it recorded. As in the case of settlers, certain work must be done within a certain time, after which a patent may be applied for on paying the price of \$3 per acre patented, and \$1.50 per acre for the mining rights.

## **III. Town Sites Act, Chap. 34, R.S.O., p. 519.**

Whenever any parcel of Crown Lands sold, given or staked out for mining, is afterwards laid out as a town site or subdivided into town lots, one quarter of the acreage so laid out shall become the property of the crown for their use or sale as seems best.

## CHAPTER XV

## MISCELLANEOUS

**I. Women's Institutes.**

Women's Institutes are classified as Agricultural Associations, and come under the Agricultural Associations Act (Chap. 46, R.S.O.). As such they are entitled to a government grant, and the Lieutenant-Governor in Council, upon recommendation of the Minister of Agriculture, may make regulations regarding the number and locations of institutes, amount of grant, etc.

**II. Habeas Corpus Act, Chap. 84, R.S.O., p. 1059.**

If a person, or someone on behalf of a person, complains that he or she is unjustly restrained of his or her liberty, not being imprisoned pending or after judgment of a court, a judge of the Supreme Court may, if he thinks there is reasonable or probable cause for the complaint, award a writ of "Habeas Corpus ad subjiciendum" to the person in whose custody the person complaining is to produce the restrained person in court, or, if the judge prefers, he may direct that the right or wrong of the complaint shall be tried in a Divisional Court.

**III. Jurors' Act, Chap. 64, R.S.O., p. 847.**

Every *male* person of 21 years and upwards, a British subject by birth or naturalization, and in possession of his faculties, who, or whose wife, is assessed for real property to the value of \$600 in cities and \$400 in towns, etc., shall be qualified and liable to serve as a juror on grand and petit juries of the High Court Division, and in all courts of civil and criminal jurisdiction within the county in which he resides.



Many people are exempted from being jurors because of their occupation, etc.,—for instance, men over 60 years of age, most government and police officials, doctors, dentists, barristers, etc., soldiers and sailors, teachers, and newspaper men.

**IV. Statute of Frauds, Chap. 102, R.S.O., p. 1170.**

No sale of goods of greater value than \$40 shall be binding, unless the buyer actually receives some or all of the goods, or pays part or all of the money, or there is an agreement in writing signed by the buyer and the seller.

**V. Swarms of Bees Act, Chap. 107, R.S.O., p. 1186.**

Wild bees are the property of the person finding them, whether he finds them on his own ground or not.

If a swarm of hived bees leaves the hive, the owner may reclaim them if he can prove ownership, even if they leave his property, unless they settle in a hive already occupied and owned by someone else.

If unpursued by the owner, an errant swarm of bees shall belong to anyone who finds them.

**VI. Aliens Real Property Act, Chap. 108, R.S.O., p. 1187.**

Aliens have the same capacity as natives to take by gift, purchase, etc., real estate in Ontario, and to sell, will it, etc.

If an alien dies intestate, his property shall be disposed of as if he were naturalized.

**VII. Transfer of Property Act, Chap. 109, R.S.O., p. 1202.**

Bonds and Debentures of a corporation which are made payable to bearer, or to any person named therein



or bearer, may be transferred by simple delivery, but if payable to any person or order, they must be endorsed by that person before transferring by delivery.

**VIII. Petty Trespass Act, Chap. 111, R.S.O., p. 1206.**

Any person commits trespass who enters another person's property if it is wholly enclosed or is a garden or lawn. Anyone trespassing may be arrested without a warrant by a police officer, or by the owner or his servant, and taken forthwith before a Justice of the Peace.

**IX. Ontario Pawnbrokers Act, Chap. 176, R.S.O., p. 1843.**

No one may be a pawnbroker without a license. He must keep records of all pledges made, which records must be open to inspection, and a copy of which must be sent to the Chief Constable every morning by 10 a.m.

A pledge pawned for \$2 or less if not redeemed within the year becomes the pawnbroker's property. If for more than \$2 it shall continue redeemable at any time, even after the year, until it is disposed of, which must be by public auction after public advertisement and display.

A pawnbroker may not take a pledge from anyone under 15 years of age or from anyone intoxicated.

*The Criminal Code (Chap. 121, R.S.)* has a Pawnbrokers Act. This limits the interest to be charged by pawnbrokers. If the sum lent is not more than 50 cents, he may charge 1 cent per month, and so on in the same proportion for every 50 cents up to 20 dollars (*i.e.*, he may charge 24%).

If the sum lent exceeds 20 dollars, he may take 5 cents per month for every four dollars exceeding the 20 dollars (*i.e.*, he may take 15% on all loans in excess of 20 dollars).

**X. Political Contributions Act, Chap. 6, 1914.**

No corporation, director, manager or officer of a corporation, no licensee, no member of a liquor association, and no public contractor may contribute, directly or indirectly, any sum of money, to aid or promote the nomination or election of any person to a public office, or to aid or hinder any political party, or to influence the vote of the electors of the province.

Such a contribution, if in regard to an election to the Provincial Legislature, shall be a "corrupt Practice."

**XI. Highway Travel Act, Chap. 46, 1916.**

No one on a bicycle or in charge of a conveyance shall, on meeting or overtaking a street car, approach to it nearer than 6 feet from the rear or front end, as the case may be, of that side of the car from which the passengers are getting off.

**XII. Town Planning Act, Chap. 38, 1918.**

The council of a city, town or village, *may* have a plan made of its district and of a zone of five miles round it to show the existing highways etc., and any proposed or desirable highways, parks, public improvements, etc. This plan when passed by the Ontario Railway and Municipal Board shall be filed with the clerk of the Municipality, and no public or private surveys or subdivisions of this land shall be made without the sanction of the municipal authority or of the Board.

**XIII. Vacant Land Cultivation Act, Chap. 39, 1918.**

The councils of cities, towns and villages, may pass by-laws for entering on, or permitting other persons to enter on, the vacant land in their districts, for the purpose only of cultivating it for a period not exceeding the duration of the war.

Before entering on a given lot, the municipality shall give notice to the owner of such intention, and shall fix a day to hear the man's objections, if any. Further, such land shall not be taken for cultivation if the owner proves that he requires it for building or manufacturing purposes during the current year.

**XIV. Trustees Act, Chap. 121, R.S.O., p. 1277.**

If land is held by trustees for a charitable purpose, and it happens that such land is not needed for occupancy, and cannot be held with profit to the charity, the Supreme Court may give the trustees power to sell the land and devote the money obtained to the funds of the charity.

**XV. The Execution Act, Chap. 80, R.S.O., p. 1006.**

Certain chattels cannot be seized for debt or to pay fines, costs, etc. These include the beds and bedding in ordinary use by the debtor and his family ; the necessary and ordinary wearing apparel of the debtor and his family ; one cooking stove and its appendages, 1 table, 1 lamp, 6 chairs, 12 plates, 12 cups, etc., sewing machine, hairbrush and comb, etc., and many other such necessary things ; the necessary fuel and food for the family for 30 days, not to exceed \$40 in value. Also 1 cow, 6 sheep, 4 hogs, and 12 hens, and 1 dog and food therefor for 30 days ; tools and implements to the value of \$100.

**XVI. The Absconding Debtors Act, Chap. 82, R.S.O., p. 1038.**

If a debtor departs from Ontario with the intention of defrauding his creditors leaving property behind him, such property, other than the chattels not allowed to be seized for debt (see above), may be seized for the satisfying of his debts by the sheriff who shall take with him two reputable freeholders, and with them make an inventory of the whole property and sell it if deemed wise and the debtor does not otherwise make good his debts.

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## CHAPTER XVI

### THE ADMINISTRATION OF THE LAW

Like all other parts of the government of Canada, the administration of the law is complicated by the relative powers and duties of the Dominion and Provincial governments. But the written constitution of Canada states that

- (1) The Dominion government shall appoint and pay the judges of the County, District and Superior Courts, who can only be removed on an address from the two Houses of Parliament to the Governor-General, and after an enquiry before a committee of the Commons or Senate on the charges against the judge. Such charges are made to the Dominion Minister of Justice, who will investigate them and advise the Houses as to the best course to pursue.

- (2) The Provincial governments appoint the justices of the peace (J.P's.), police magistrates and stipendiary magistrates. In Ontario there must be a police magistrate in every city and town of more than 5,000 inhabitants, and may be one in smaller towns and counties if desired. They hold office during pleasure, their salary must be paid by the city, town or county employing them, and it must not be reduced without the consent of the Lieutenant-Governor in Council. A police magistrate has the power of two justices (R.S.O., Chap. 88). There must also be one or more justices of the peace for each county, city or town in Ontario, who must not be solicitors, sheriffs or coroners, and whose unencumbered property must be valued at over \$1,200 (R.S.O., Chap. 87). They usually act in pairs, and may then do all that a police magistrate may do, but one justice may hear a charge against a person, and, if reasonable, may issue a summons for that person's appearance at the next court, or a warrant for his arrest. One J.P. may also issue search warrants. At the trial, justices deal immediately with minor offences, but in the main they either dismiss the case because there is no evidence of guilt, or commit the offender to stand his trial at the Court of General Sessions of the Peace, or a Superior Court of Criminal Jurisdiction. Full particulars of the exact procedure in a Justice's Court are to be found in the Criminal Code (1906 Edition, p. 181, *et seq.*). In addition to the magistrates, the Provincial

governments appoint the officers of the Courts, namely, the sheriffs, crown attorneys and clerks of the peace, registrars, coroners, etc., who all hold office during pleasure, but may be dismissed by the Lieutenant-Governor in Council for inefficiency, etc. Their duties are explicitly defined in the Revised Statutes of Ontario, in the chapters dealing with the particular courts at which they officiate. (Chapters 55 to 63, R.S.O.)

- (3) The Dominion government alone can make laws respecting crimes and criminals, *i.e.*, offences and offenders against the state in contradistinction to offences against a person, or "torts" as they are called. The law regarding the latter offences—breach of contract, debt, transfer of property, etc., is called civil law, and can only be passed by the Provincial governments, who also have power to create, manage and alter their own law courts, which carry on all trials, both criminal and civil, within the Province. The Dominion government has, however, the right to prescribe the procedure in criminal cases (see below), and may and does call upon the Provincial courts to carry out its legislation.

As appears from the above, law suits are of two kinds, civil and criminal.

In Civil cases, the offence is against a person who, as plaintiff, must bring an action against the offender, who is called the defendant. These actions are tried in the Division or County Court of the district, according as the amount at issue (most civil cases are about money



affairs, collection of debts, etc.) is less or greater. They are presided over by a judge who may hear and settle the matter at once, though either party may demand a jury if the amount in dispute is more than \$20, in which case five jurors are sworn in. If a judgment is given and the debtor does not pay up, the clerk issues "an Execution against the goods and chattels" of the debtor, and the bailiff takes possession of them and sells them. If then the money realized does not reach within \$40 of the amount of the debt, an Execution order may be made out against the debtor's land. (Division Court's Act, R.S.O., Chap. 63, and County Court's Act, Chap. 59, R.S.O.)

In criminal cases the offences (such for instance as theft, seduction, treason, murder, etc.) are considered to be an injury not only to one man but to society, and the King, representing his people, is always the plaintiff. In every county, and in Toronto, there is a Crown Attorney, a barrister of not less than three years' standing, whose business it is to watch cases in the inferior courts and decide if they are Criminal or Civil, to assist and advise the justices and police magistrates, receive and examine all papers received with a prisoner committed for trial on a criminal offence, and to sue for the Crown at the Court of General Sessions of the Peace, and at the County and District Court Judges Criminal Courts. (See below.) (Crown Attorneys Act, R.S.O., Chap. 91.)

To convict a man of a serious criminal offence is a very slow and sure proceeding. He may first stand his trial in a justice's or police magistrate's court. (See Chap. 146 of the Criminal Code, § 665, *et seq.*) The



justice hears both sides, and if there is any *prima facie* evidence of guilt he puts the accused on trial by a warrant of commitment. If the penalty for the supposed offence is more than five years' imprisonment, two justices may admit the prisoner to bail, but if the penalty is less than five years, one justice may do so, while for treason or a death penalty offence no bail is allowable.

If the offence is triable by a Court of General Sessions of the Peace, the prisoner may be tried at it, and not wait for a Superior Court of Criminal Jurisdiction.

*Courts of General Sessions of the Peace* (see Criminal Code, Chap. 146, § 582), if presided over by a judge of the Superior Court or a County or District judge, have power to try indictable offences, except treason, murder, rape, corruption, defamatory libel, and actions in restraint of trade, etc.

If a person is charged before a magistrate, judge of County Court, or two justices, with any of the crimes for which the court of General Sessions of the Peace is the usual court to try his case (*e.g.*, theft, wounding, indecent assault not amounting to an attempt at rape, keeping or frequenting a disorderly house, obstructing the police, etc.), he or she may be given his or her choice (except in the case of keeping or frequenting a disorderly house, in which cases the prisoner's consent is not necessary) as to whether he will be tried summarily before the first court or be remanded to a trial by jury at the assizes. If the person consents to be summarily tried, the charge shall be reduced to writing and read to the accused, and he or she is asked to plead guilty or not guilty. If he pleads guilty the magistrate may give the same penalty as

would have been given in the Court of General Sessions of the Peace. If he pleads not guilty the magistrate proceeds to try the case by the usual means of witnesses, etc. Every such court shall be an open court and the public must be allowed in (see Summary Trial of Indictable Offences. Criminal Code, Chap. 146, part XVI).

If the accused does not accept summary trial, he may be committed for trial at the Assizes or Superior Court, which tries both civil and criminal cases. There is then another attempt made to hurry up the trial, for the sheriff must notify the County Court judge within 24 hours that the accused is in gaol (for any crime except murder, treason, rape, libel, corruption, etc.), and the judge shall have the man brought before him, offer him a trial at once without a jury and without waiting for the regular sessions of the assizes, and, if he consents, the judge may proceed to try him in the usual way, and, if guilty, pass the usual sentence. The Crown Attorney or other prosecuting officer may, with the consent of the judge, prefer a different charge against the prisoner from that on which he has been committed. Such a court is known as a *County Court Judge's Criminal Court*. (See Speedy Trials of Indictable Offences, Criminal Code, Chap. 146, Part XVIII.)

If the prisoner still prefers to be tried by a jury, his case will be held over until the next assizes, the Superior Court which tries both civil and criminal offences of importance.

The judges of the Superior Courts make what are called "circuits" at least twice a year to the various county towns, and conduct such trials as are awaiting them, with the aid of a jury. The jury consists of 12

men chosen from among those liable to serve, whose names are written on a slip or "panel."

*In Civil Cases* only ten of the twelve jurymen need agree to convict a man. The procedure for civil trials is much the same as in the lower courts; the plaintiff and defendant and their witnesses are heard, the judge states the law in the case and the jury decide on the facts and return the prisoner as guilty or not guilty, and the judge imposes the sentence, if any. Both the parties may object to certain of the jurymen acting when their names are called, and each has a certain number of challenges without giving a reason ("peremptory"), and an unlimited number if there is any reason against them, as for instance that one of the jurymen called is not impartial, or is an alien, etc.; this is called a challenge for "cause."

*In Criminal Cases*, before the prisoner comes before the judge and jury, he must be "indicted." The crown attorney makes out a charge against him, founded on the facts revealed in the lower courts. The names of witnesses who have been or are to be examined are endorsed on the bill of indictment, which goes before a "grand jury," composed of men chosen for that purpose. These men decide whether there is a "true bill" or "no case" for continuing the trial; if the latter the prisoner is released, if the former the prisoner stands his trial before the "petit jury," another group of 12 men, chosen as in civil cases. The prosecutor and accused both have a certain number of "peremptory" challenges and challenges "for cause." Then counsel for both sides are heard and their witnesses, the judge states the law as it relates to the question and the jury retire to discuss their verdict. They must be unanimous for a conviction.

If they disagree and the court sees no chance of their agreeing, it may discharge them without giving a verdict and order a new jury to be impanelled. When the commission of an offence is not proved, but the attempt to commit it is, the jury may return that verdict. When an "attempt to commit" an offence is charged and the commission of it is proved, the court may convict for "attempt," or it may discharge the jury without their giving a verdict, and direct a new jury to try the person for the more serious crime.

In trials for treason, perjury, feigned marriage, forgery, seduction and procuring, a conviction cannot be had on the evidence of one witness, unless it is corroborated in some material particular by evidence implicating the accused.

Evidence as to carnal knowledge with a young girl may be taken from the girl without an oath, provided she understands the duty of telling the truth, but such evidence must be corroborated in some material particular by evidence implicating the accused before it can win a conviction.

Appeals are allowed from any verdict of a court having criminal jurisdiction to the Supreme Court of Ontario. Its judgment shall be final if unanimous; failing that, an appeal shall be allowed to the Supreme Court of Canada.

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